





This book is due on the last date stamped below

|

UNIVERSITY of CALIFORNIA
A1
LOS ANGELES
LIBRARY

NEW EDITION

OF THE

BABYLONIAN TALMUD

Original Text, Edited, Corrected, Formulated, and
Translated into English

BY
MICHAEL L. RODKINSON

SECTION MOED (FESTIVALS)

TRACT ERUBIN

וְהָיָה כִּי יִשְׁכַּח אֶת הַיּוֹם
וְהָיָה כִּי יִשְׁכַּח אֶת הַיּוֹם
וְהָיָה כִּי יִשְׁכַּח אֶת הַיּוֹם
וְהָיָה כִּי יִשְׁכַּח אֶת הַיּוֹם
וְהָיָה כִּי יִשְׁכַּח אֶת הַיּוֹם
וְהָיָה כִּי יִשְׁכַּח אֶת הַיּוֹם
וְהָיָה כִּי יִשְׁכַּח אֶת הַיּוֹם
וְהָיָה כִּי יִשְׁכַּח אֶת הַיּוֹם

Volume III.

BOSTON
THE TALMUD SOCIETY
1918

. 91932

EXPLANATORY REMARKS.

In our translation we adopted these principles:

1. *Tenan* of the original—We have learned in a Mishna; *Tania*—We have learned in a Boraitha; *Itemar*—It was taught.

2. Questions are indicated by the interrogation point, and are immediately followed by the answers, without being so marked.

3. When in the original there occur two statements separated by the phrase, *Lishna achrena* or *Waibayith Aema* or *Ikha d'amri* (literally, "otherwise interpreted"), we translate only the second.

4. As the pages of the original are indicated in our new Hebrew edition, it is not deemed necessary to mark them in the English edition, this being only a translation from the latter.

5. Words or passages enclosed in round parentheses () denote the explanation rendered by Rashi to the foregoing sentence or word. Square parentheses [] contain commentaries by authorities of the last period of construction of the Gemara.

COPYRIGHT, 1903, BY
MICHAEL L. RODKINSON.

COPYRIGHT 1916, BY
NEW TALMUD PUBLISHING SOCIETY

B/A
500
T14
v.2

CONTENTS.

	PAGE
INTRODUCTION TO TRACT ERUBIN,	v
SYNOPSIS OF SUBJECTS OF VOLUME III.—TRACT ERUBIN, . .	ix

CHAPTER I.

REGULATIONS CONCERNING THE WIDTH AND HEIGHT OF AN ERUB CONSTRUCTED IN STREETS INHABITED SOLELY BY ISRAELITES, AND REGULATIONS CONCERNING THE CONSTRUCTION OF AN ERUB BY A CARAVAN,	i
--	---

CHAPTER II.

REGULATIONS CONCERNING THE USE OF A WELL AND A GARDEN ON THE SABBATH,	40
---	----

CHAPTER III.

REGULATIONS CONCERNING WHEREWITH AND WHERE AN ERUB MAY BE MADE. WHEREBY AN ERUB BECOMES INVALID. THE ERUB OF LIMITS, WITH ITS CONDITIONS. WHEN A FESTIVAL OR NEW-YEAR PRECEDES THE SABBATH,	62
---	----

CHAPTER IV.

REGULATIONS CONCERNING THE OVERSTEPPING OF THE LEGAL LIMITS ON THE SABBATH, AND MEASUREMENTS OF THE SABBATH-DISTANCE,	93
---	----

CHAPTER V.

REGULATIONS CONCERNING THE BOUNDARIES OF A TOWN AND THE MEASUREMENTS OF THE LEGAL LIMITS,	119
---	-----

CHAPTER VI.

	PAGE
REGULATIONS CONCERNING THE ERUBIN OF COURTS AND PART- NERSHIPS,	145

CHAPTER VII.

REGULATIONS CONCERNING THE PREPARATION OF ERUBIN FOR COURTS SEPARATED BY APERTURES, WALLS, DITCHES, AND STRAW-RICKS. COMBINATION OF ERUBIN IN ALLEYS, .	179
---	-----

CHAPTER VIII.

REGULATIONS CONCERNING THE ERUBIN OF LIMITS. THE QUANTITY OF FOOD REQUIRED FOR SUCH ERUBIN, AND FURTHER REGULATIONS CONCERNING ERUBIN OF COURTS, .	198
--	-----

CHAPTER IX.

REGULATIONS CONCERNING THE COMBINING OF ROOFS ON SABBATH,	214
--	-----

CHAPTER X.

SUNDRY REGULATIONS CONCERNING THE SABBATH, . . .	227
--	-----

INTRODUCTION TO TRACT ERUBIN.

THIS Tract, virtually the third of the Sabbath series, treats of subjects similar to those discussed in the first two. The main point of difference is, that most of the laws laid down in the preceding two volumes are founded on biblical behests, while those instituted in the present volume are of purely rabbinical origin, notwithstanding the assertion of a solitary individual who appears in the course of a debate and declares that the legal-limit branch of the Erub is a biblical enactment.

A remarkable feature of the Tract is the exposition of the manner in which the shrewd sages circumvene the rigorous prohibitions contained in the Tract Sabbath and how they take advantage of every loophole afforded them through imperfections in the law, at the same time avoiding any palpable infraction of the law itself.

As already explained in the introduction to Volume I., the restrictions with which the Sabbath was surrounded had their unquestionable political import, but their very rigor made the sages, than whom none knew the people better, doubt whether enforcement and still less voluntary observance could ever be possible. It became necessary, therefore, to find some way of modifying the law, not directly, but by the institution of other in a measure counteracting laws. The solution for this problem presented itself in the "Erub" (literally "commixture") ordinances, the first results of which were to bring about a distinction between the different kinds of ground inhabited by man. Lines of demarcation between public, unclaimed, and private ground and ground which was under no particular jurisdiction were strictly drawn. Whatever ground, however, could be made by hook or crook to come under the category of private ground was eagerly included, as in the latter things could be carried about at will. In order, therefore, to have as much private ground as possible, each man having an interest in public ground would relinquish or transfer his right to his neighbor and thus make it communal or private property. Of course, this could be

done only among Israelites, and where a Gentile had an interest in a piece of coveted ground, his share had to be bought outright.

It was this desire to be in the same neighborhood, yea, even on the same grounds, that laid the foundation of the subsequent Ghettos, still flourishing in most of the large cities of the world. How this communal living was fostered may be readily understood, when it is stated that the sages permitted the execution of a written instrument in Palestine on the Sabbath, under ordinary circumstances a grave offence, where a piece of property had to be purchased from a Gentile for communal purposes. (See Gitin, 8b, and Schulchan Aruch Orach Chaym, 306, §11.)

The name of this Tract may be said to have a certain significance. The Hebrew word "Erub" has a variety of meanings, among them "commixture," as stated, "agreeable," "secure," and "safeguard." As the discussions in the Tract will demonstrate, either one of these meanings may be applied to the appellation of the Tract and still express the purpose of the laws ordained. By those laws the observance of the Sabbath was made "secure," they proved a "safeguard" against "amalgamation" or "mingling" with other nations, and by virtue of the modification to the laws of Sabbath which was brought about, the observance of the Sabbath was made more "agreeable." Several other meanings might be utilized in the same manner, but lest they seem far-fetched they are omitted.

Another peculiarity of this Tract is that under no circumstances and on no occasion is the derivation of a law enacted in this particular Tract inquired into, and unlike other tracts there will not be found a single query as to where the Mishna derives the law. For want of other sources the institution of the Erub has been attributed to King Solomon, *vide* page 51.

The main subjects of discussion in the following pages will be how this Erub shall be effected, what materials shall be used to bring about a commixture, how entries (by which is meant the entry to a court or a yard where an aggregation of families reside) are to be arranged, and the like.

Altogether there are four kinds of Erubin, only three of which will be discussed in this treatise. They are: The combining of courts, the combining of limits, and the combining of streets, also known as junction. The other commixture is called combining of cookery, which will be treated at length in Tract Yom Tob.

The combining of courts deals with the regulations by the observance of which various houses standing in one court are joined together into one common ground, thus enabling the householders to carry and convey articles to and from one another. The combining of limits treats of the regulations through which the distance of two thousand ells, beyond which no Israelite is allowed to travel on the Sabbath, may be legally extended.

The combining of streets treats of the rules to be observed in the case of narrow streets and public places which can be turned into private ground under certain conditions.

Finally, it may be well to add that, of all the difficult and complicated treatises in the Talmud, the Tract Erubin is by far the most difficult, and in a great many places almost incomprehensible to other than the most careful students.

THE EDITOR.

NEW YORK, *September*, 1897.

SYNOPSIS OF SUBJECTS

OF

VOLUME III.—TRACT ERUBIN *

CHAPTER I.

MISHNA I. treats : If an entry be higher than twenty ells. The size of the height is based upon the door and the porch of the pillars of the temple, or palaces of kings. If the cross-beam was partly above twenty ells, and partly below. The ell used at a booth and an entry measures five spans, but the ell used at Kilaim is six spans. The several prescribed quantities, the intervention of articles, and the ordinances concerning the walls of entries and booths were given by Moses at the Mount Sinai, and also Gud, Lavud, and crooked walls. About Kal Vochomer (*à fortiori*), which comes very often in the Talmud. The people there were ignorant, and had to be given a liberal interpretation of the ordinance. How must entries facing public ground be combined by an Erub ? May the rigorous ordinances of two Tanaim be applied to one case ? What was decided about a village of a shepherd, where was an entry which opened into a vacant yard. May the space underneath the cross-beam be used ? The law about an entry which was provided with a number of side-beams (with the illustration). The law about a missing portion of the wall, perceptible from the inside or from the outside (with their illustrations). Whether an entry measuring twenty ells could be reduced to thirteen and a third if built as illustrated ? What R. Jehudah taught to R. Hyya, the son of Rabh, and how Rabh corrected. How an apparent door is to be made, 1-22

MISHNA II. What is required to legalize the carrying within an entry. How the sages were very lenient with all things pertaining to water. Whether water may be taken from an arm of the sea which enters a courtyard. There is a tradition about an entry that can be legalized by a side or cross beam. Why was Rabbi, or Rabh, more sagacious than his colleagues ? Why were the school of Hillel favored ? Because modest. Two years the schools of Shammai and Hillel disputed whether it were better that man had not been created as he was, 22-28

* See introduction to synopsis in Tract Sabbath, Vol. I., p. xxix.

MISHNA III. The cross-beam must be wide enough to hold a half of a brick. About a cross-beam put up over an entry but not reaching the opposite wall. Anything measuring three spans in circumference is one hand in width, 28-31

MISHNAS IV., V., VI., and VII. The height and thickness of the side-beam. How much is meant by thickness "whatever it may"? About a side-beam standing of itself. There was a pillar about which Abayi and Rabha differed all their lives. Side-beams may be made out of anything. Every open space ten spans wide may be used as an entry. The open space must not exceed in extent the fence proper. How can it be that there should be a contradiction and still the Halakha should prevail according to it? A fence may also be constructed with three ropes, or with cane-laths. Any partition not constructed on the principle of warp and shoot, whether it is a partition? I swear by the law of Moses, and by the prophets, and by the Hagiographa, that Rabh said this. It makes absolutely no difference, be it a caravan or an individual, in an inhabited place or in the desert. The four privileges granted to warriors in the camp, 31-39

CHAPTER II.

MISHNA I. How enclosures are to be made around wells (and illustrations.) To make an enclosure around a well of rain-water is permitted only to the pilgrims to Jerusalem. Adam, the first man, had a dual face. The Lord was sponsor to him. The fires of hell cannot gain access to the bodies of the sinners of Israel; Abraham the patriarch, seeing that they are circumcised, rescues them. How much in size must the larger part of a cow be reckoned? May things be carried from a courtyard opening into the enclosure around a well, and *vice versa*? I have heard that ye go to the Synagogue of Daniel on the Sabbath; upon what grounds do ye do this? In the time that Solomon the king ordained the law of Erubin, a heavenly voice was heard. Solomon said three thousand proverbs for every one of the biblical commandments. The commandments are to be fulfilled to-day, and the rewards will be in the world to come. If a public thoroughfare passes through an enclosure. The paths by which the mountains of Palestine are ascended do not come under the head of public ground, . . . 40-55

MISHNAS II. and III. An enclosure of boards must be made only for a public well. The difference in the opinions of R. Jehudah b. Babah, R. Aqiba, R. Eliezer, and R. Jose, about a garden or woodshed over seventy ells square. How can one hundred ells in length by fifty by fifty in breadth (Ex. xxvii. 18) be understood? If a woodshed of more than two saahs' capacity was fenced in for a dwelling. In a bleaching-ground (behind a house) things must not be carried except for a distance of four ells. What was done by R. Huna bar Hinana, R. Papa, and R. Huna, the son of R. Joshua in reference to a garden on the estate of the Exilarch containing a pavilion, 55-61

CHAPTER III.

MISHNA I. With what kind of victuals may the Erub be effected? "The man who will explain to me the dictum of Ben Bagbag concerning the oxen,

I will carry his clothes after him to the bath-house." The prescribed quantities of victuals for an Erub. R. Jeremiah went out into the villages and was asked whether an Erub may be made with bean-pods. "May the lord forgive R. Menashiah bar Shegublick. I said this to him in reference to a Mishna, and he said this in reference to a Boraitha." Abayi said: My mother told me that roasted ears are good for the heart, and drive away care, etc. An Erub must not be made with consecrated things. There are sages who hold that the prescribed quantities which are dependent upon the size of man should be measured accordingly, 62-70

MISHNAS II., III., IV., and V. Whether an Erub may be made of things consecrated, or from which heave-offering, etc., has not been separated. When a man sends his Erub by the hand of a deaf and dumb person, an idiot, or a minor. The difference of opinion between R. Na'hman and R. Shesheth, whether the established rule that a messenger will perform his errand holds good in rabbinical things only, or also in biblical. If he had put it into a pit, where is the pit supposed to be situated? If the man should put the Erub on top of a cane or pole, into a cupboard which he locked and then lost the key, the Erub is nevertheless valid, providing it was a festival. On Sabbath, however, it is not valid. If the Erub rolls (or is moved) out of the limit of the Sabbath distance? If the time when it took place is doubtful? If a clean and unclean loaf were before a man, and he was told to make an Erub with the clean one, but did not know which was which? Said R. Na'hman to Rabba: If thou wilt measure a whole kur of salt and present me with it, I shall tell thee the answer. A man may make his Erub conditional. If one of the two sages had been the man's teacher, he must go to meet his teacher. It frequently happens that a man has a greater fondness for his colleague than for his teacher. Why can he not make it conditional upon the arrival of sages from opposite directions? R. Jehudah does not admit of the theory of premeditated choice. Who is the Tana who holds that the sages also discountenance the theory of premeditated choice? 71-82

MISHNAS VI., VII., VIII. If a festival precedes or succeeds a Sabbath, how must it be done? Have two days of the festival each a separate degree of sanctification? The opinion of the four old sages is in accordance with or contrary to Eliezer's decision. Is an Erub of the first day valid for the east, and of the second for the west? My Erub shall be valid for the first day and on the second I am like my townsmen. What was said to the men who prepared baldachins for marriages. How is it with the benediction of the time on the days of New Year and the Day of Atonement? How the rabbis sent a man to R. Hisda to see his custom about the benediction of time. Must a fast be completed on a Friday? 82-92

CHAPTER IV.

MISHNA I. What Rabbon Gamaliel, R. Eliezer b. Azariah, R. Joshua, and R. Aqiba discussed when they were on board the ship from Parendisim. Three persons will never come to Gehenna. Three classes of human beings die in the possession of their power of speech. If foes or an evil spirit have carried a man into another town? The Halakha about which R. Gamaliel

and R. Aqiba disputed the whole day on board the ship. The supposition that the seven Halakhas related on the same Sabbath in the morning in Sura, and in the evening in Pumbaditha, were through Elijah the prophet. How a partition with men can be made. It once happened that flasks of wine were thrown out of Rabba's house on the road in the city of Mehuza, and what was done with them, 93-100

MISHNA II. All those who go forth on an errand of safety are permitted to return to their homes on Sabbath. Besieged cities and those near a boundary. The difference of opinions between R. Meir and R. Jehudah about the entering a town at dusk before Sabbath. According to whom the Halakha prevails when R. Aqiba, R. Jose, and R. Meir, R. Jehudah, Rabbi, etc., differ. Notes about our omissions in the Talmud, about the abbreviation of undecided questions, and about the rule laid down by R. Mesharshia. It once happened that rams were brought into the city of Mabrakhta on a festival. Whence do we derive the four ells? If we were to learn the Talmud in this manner, we would never be able to learn anything. An Erub divided by a man in two parts or deposited in two separate vessels, 100-111

MISHNAS III., IV. Should a man overtaken by dusk on the road single out a tree or hedge? What is meant by "legally he has said nothing"? If a man made an error and deposited his Erub in two directions. What Rabba said in the name of R. Jose, that it should be accepted, though he had not said so. What is the principal way to make an Erub, bread or the feet? One who can prepare an Erub and does not do so, is like one driving an ass and leading a camel. R. Jehudah bar Isht'tha brought a basket of fruit to R. Nathan bar Oshiya on the eve of Sabbath. If one went beyond the legal limit even a single ell. Opinions of R. Simeon and the sages about one overtaken by dusk, 111-118

CHAPTER V.

MISHNA I. How can the boundaries of a town be extended? The difference between the hearts of the previous sages and those of the later. Why the Judeans retained what they had learned, and the Galileans, not. Whence is it known that the Lord forgave Saul for his sin? When Joshua b. Hananiah was disconcerted by a woman, a girl, and a boy. What Brurih, the wife of R. Meir, told to R. Jose, the Galilean, and also to a young scholar. The explanation of Netzach, Selah, and Voëd mentioned in the Bible. If the tables had not been broken the first time the law would not have been forgotten by Israel. How to retain one's knowledge. How the method of teaching the law was in the times of Moses. R. Preida would teach a disciple a thing four hundred times, and once twice four hundred times: his reward for this from heaven. If a town is in the form of an arch. If one comes to make a town square. The equinoxes. Note about the seven planets of ancient astronomy, 119-131

MISHNAS II., III., IV., V. An allowance of seventy and two-thirds ells of space must be made to the town. The difference of opinions whether to each town, or between. What must the distance between the outer villages

be? One must not measure the legal distance except with a line exactly fifty ells long. The three kinds of cord. What is meant by cutting straight through the mountain. The measurement must be undertaken only by an expert. If a town belonging to an individual becomes public property. If a town that is public property becomes the property of an individual. The inhabitants of Kakunai came before R. Joseph and asked him to give them a man to effect an Erub for them in their city, 131-140

MISHNA VI., VII. A man who is at the east of his domicile, telling his son to place his Erub towards the west, or *vice versa*. What is meant by "toward the east"? (and illustrations). If a town stands on the steep banks of a lake. The discussions about the right of the inhabitants of Hamtan and Gadar to carry or go. The inhabitants of a large town may traverse the whole of a small town (but not *vice versa*). Mar Jehudah observed that the inhabitants of Mabrakhta placed their Erub in the synagogue of the city of Agubar, 140-144

CHAPTER VI.

MISHNA I. One who dwells in the same court with a Gentile, or with one who does not acknowledge the laws of Erub. The dwelling of a Gentile, as far as the laws of Erubin are concerned. May a disciple decide a Halakha in the place where his master resides? If a slaughtering knife is brought to a young scholar for examination. Who sends his gifts to one priest to the exclusion of all others brings famine into the world. If several Israelites rented apartments from a Gentile, and one of them forgot to make an Erub. One who is tipsy should not pray. Prayer of one intoxicated considered as blasphemy. A quarter of a lug of Italian wine inebriates. Three miles' walk required to destroy the effects of wine. The night made only for sleep, according to one. The moon made only to facilitate study at night, according to another. The cases in which R. Samuel's father, R. Samuel, and R. Papa would not pray. Wine made only for mourners and to reward for good deeds the wicked in this world. A house where wine flows not like water cannot be classed among those that are blessed. What R. Hanina bar Joseph, R. Hyya bar Abba, and R. Assi discussed in an inn, the proprietor of which was a Gentile. R. Hisda's lips would tremble when he met R. Shesheth, because the latter was versed in Mishnaioth and Boraithoth, while the whole body of R. Shesheth trembled when he met R. Hisda, because of his sagacity. The discussion about warm water for a new-born child. How is it possible that two such great men made no Erub. Whether a Sadducee is considered the same as a Gentile, R. Gamaliel and the sages differ. There are two kinds of Sadducees, 145-162

MISHNAS II., III., and IV. If one of the householders of a court forgets, and does not join in the Erub. From what time is the right to be conferred? If five men inhabited one court, one must resign his right, if he had forgotten to join in the Erub. May an heir resign his right or not? The reason of the difference between Beth Shammai and Beth Hillel about the meaning of resigning the right to a place. The difference of opinion between the sages and R. Simeon about partnership in wine or oil. In courts an Erub must be made with bread, but it is not allowed to do so with wine. Differ-

ence between Beth Shammai and Beth Hillel about five companies occupying during Sabbath one hall. Brothers or associates taking their meals at one table but sleeping in separate houses. One who has a vestibule, a gallery, or balcony in the court of another, without an Erub. It happened that an inhabitant of Naph'ha, who had five courts in Uqba, did not join in the Erub with the inmates of the courts. What about the disciples of the college, eating in the inns of the valley and passing the night at the college? 162-169

MISHNAS V., VI., and VII. If five courts open into each other and an alley, if they combined both the courts and the alley, or only one of these. How Samuel was asked a question and answered with silence. Does the silence signify acquiescence? If two courts were one within the other, and all the inmates or one forgot to make an Erub; if the courts were the property of an individual. If an Erub was placed in the outer court and one of the inmates either of the outer or inner forgot to join in an Erub, carrying is prohibited; and how if it was placed in one of the inner courts? If there was a third court between the two, also belonging to an individual, is it permitted to carry in any of the three? 170-178

CHAPTER VII.

MISHNAS I., II., III., and IV. If there be an aperture, four spans square, etc., between two courts. If in the attic of a house there was a hole for the purpose of fastening a ladder therein, should the house be considered solid? If there be a wall ten spans high and four spans wide between two courts. If a man comes to diminish the size of the wall referred to in the Mishna. An Egyptian ladder does not diminish a wall, but a ladder of Tyre does. If one erected two benches, one above the other, at the foot of a wall. What is the law if several pegs be placed on the pillar in question? I have a tradition that a ladder standing straight against a wall also diminishes its size. What is the law if a man used a tree, which grew right at the wall, for a ladder? If two courts are separated by a ditch, ten spans deep and four wide. "Thou wouldst prove a contradiction from a law pertaining to uncleanness to a Sabbath-law?" If there be between two courts a straw-rick, ten spans high. If a house which was filled with straw stand between two courts? 179-189

MISHNAS V., VI., VII., and VIII. How are alleys to be combined? If alleys or legal limits are combined. Whether a transfer of ownership is necessary in case of Erubin of cooked articles. R. Zera was asked whether it may be rented from the man's wife. Note about a misprint that has existed since the Talmud has been published and reprinted. If the quantity of food required for the combination becomes diminished. How much is this legal quantity. Eighteen dried figs are sufficient for two meals. The Erub of courts or combination of alleys may be effected with all kinds of nutriment except water and salt. Is it permitted to make an Erub with bread made of rice or millet? A man may give money to the wine-seller or baker in order to acquire the right to join in the Erub. About a Meshikha to a sale and its explanation. If additional inhabitants came into the alley, the right of possession must be transferred to them, 189-197

CHAPTER VIII.

MISHNAS I., II., and III. How are the legal limits to be combined? A child that is only six years old may go out in the legal limits which have been combined by its mother. How much is the legal quantity of food required to effect the combination of limits? Note about coins and measures mentioned in the Tract. If the inhabitants of a court and balcony should have forgotten to combine an Erub. If there were three ruins between two houses, each house may use the adjoining ruin by throwing therein, except the middle one (with illustrations), . . . 198-204

MISHNAS IV., V., VI., and VII. If a man deposit his Erub for the combination of courts in a vestibule, gallery, or balcony. If a company was seated at table on the eve of Sabbath, the bread on the table may be depended upon to serve as an Erub. If a man leaves his house and goes to take his Sabbath-rest in another town (without previously joining in the Erub). If there be a well between two courts it is not lawful to draw water. If a canal runs through a court it is not lawful to draw water, unless there be a partition. If a canal flows between two walls which contain apertures, . . . 204-209

MISHNAS VIII. and IX. If there be a balcony above the water. The law concerning robbery is applicable also on Sabbath. If the court be less than four ells square it is not permitted to pour water therein on Sabbath, unless a sewer is made. All these regulations concerning the pouring of water apply only to summer, . . . 209-213

CHAPTER IX.

MISHNAS I. and II. All the roofs of a town are considered one private ground, provided there be not one roof ten hands higher than the rest. If a man erected an attic on top of his house and provided it with a small door four spans wide, he may carry things in all the roofs. All roofs are considered as one private ground in their own right. "It happened in a time of danger that we brought up the sacred scrolls from a court to a roof." If a large roof adjoins a small one. If there are three woodsheds opening into each other, of which the two outer are enclosed while the middle one is not (with illustrations), . . . 214-223

MISHNAS III., IV., and V. If a court (through an incavation of its walls) is laid open to public ground. In a court (the corner walls of which had fallen in on Sabbath so) that it has been laid open to public ground on two sides. If an attic be built over two houses, also if bridges are open at both ends, . . . 223-226

CHAPTER X.

MISHNAS I., II., and III. If a man finds tephilin on the road he should watch them and bring them into the nearest town or village; likewise his child he should hand to his companion, etc. If one buys tephilin of a man who is not an expert, he must examine two tephilin. How came his child on the field or on the road? This refers to a child that was born there. If a man reads in a scroll (of sacred scriptures) on the threshold of the house and it

slips out of his hand. On a ledge outside a window it is permitted to place vessels, 227-235

MISHNAS IV., V., VI., VII., VIII., and IX. A man may stand in private ground and move things that are in public ground. A man must not, standing in private ground, drink in public ground. A man may catch water dropping from a spout on the roof. If a well, standing in public ground, have an enclosure ten spans high. Beneath a tree, the branches of which droop and cover the ground. The shutters of a bleaching ground or thorn bushes, 235-240

MISHNAS X. to XVIII. A man must not, standing in private ground, unlock with a key something in public ground. A loose bolt, with a knob to it, is prohibited to use on Sabbath. A loose bolt that is fastened to a rope may be used in the Temple only. In the Temple the lower hinge of a cupboard door may be refitted into its place. Priests who minister may replace a plaster in the Temple. The Levites performing on musical instruments may tie a string. The priests who minister may remove a wart from an animal on Sabbath. A ministering priest who hurts his finger may bind it up with reeds in the Temple. Should the carcass of a dead reptile be found in the Temple on the Sabbath the priest shall move it out with his belt. From which parts of the Temple should it be removed? It is permitted for anyone to enter the Temple for the purpose of building, 240-251

TRACT ERUBIN.

CHAPTER I.

REGULATIONS CONCERNING THE WIDTH AND HEIGHT OF AN ERUB
CONSTRUCTED IN STREETS INHABITED SOLELY BY ISRAELITES,
AND REGULATIONS CONCERNING THE CONSTRUCTION OF AN ERUB
BY A CARAVAN.

MISHNA: If an entry * be higher than twenty ells, it should be lowered. R. Jehudah said: "This is not necessary." If it be wider than ten ells, it should be made narrower, but if it have the appearance of a door, even though it be wider than ten ells, it need not be made narrower.

GEMARA: We have learned in a Mishna [Sukkah, I. *a*] that a booth which is higher than twenty ells is unfit for use, and R. Jehudah said, that it may be used. Why does the Mishna in the case of an entry decree, that it should be remedied by lowering, while in the case of a booth it declares it unfit for use? Because in the case of a booth a number of other defects are mentioned in connection with the excessive height and each of those would require a special explanation as to how they were to be remedied, whereas in the case of an entry only two things are to be corrected, and the remedy for them is taught.

R. Jehudah said in the name of Rabh: The difference of opinion between the sages and R. Jehudah is based upon the door and the porch of pillars in the temple. We have learned in a Mishna, that the door of the Temple was twenty ells in height and ten ells in width and that the porch was forty ells in height and twenty ells in width. The sages compare the entry with the door and R. Jehudah compares it with the porch of the Temple, which was also more or less a door; and why does R. Jehudah say, that the porch is also a door, because it is written [Ezekiel

* For explanation of this term, see Introduction

xv. 48], "the porch of the house," and that is equivalent to the door of a house. Why do not the sages hold the porch to be a door? Because, were it written, "the door of the porch," the porch might also be considered a door; but as it is written, "the porch of the house," it means the porch which opens towards the house, but not a door to the house.

How can it be that R. Jehudah bases his dictum on the porch of the house? The porch was twenty ells in width, and when the Mishna decrees that if the entry be wider than ten ells it must be made narrower, he does not dissent? (Why did he not say, that it was not necessary to lessen its width?) Said Abayi: In the following Boraitha he does dissent as we have learned: "If the width of the entry exceed ten ells it should be made narrower, but R. Jehudah says, it is not necessary." Why is this omitted in the Mishna? He disputes with the sages concerning the height, hence it is evident that he also disputes as to the width.

Again: How can it be that R. Jehudah bases his dictum upon the porch of the house? Have we not learned in a Boraitha, that if an entry exceed twenty ells in height, it must be lowered? R. Jehudah, however, says, that it may be made even forty or fifty ells in height, and Bar Kappara taught, that it may be even one hundred ells high. As for Bar Kappara, it is assumed to be an exaggeration; but as for R. Jehudah it cannot be considered merely an exaggeration, because he bases his dictum upon the porch of the house, and that was only forty ells in height. Why does he say "or fifty"? Whence his basis for such an assertion? Said R. Hisda: Rabh erred on account of the following Boraitha: "We have learned, an entry which is higher than twenty ells, thus exceeding the height of the door of the Temple, should be lowered." Now Rabh assumed, that if the sages base their teaching upon the *door* of the Temple, R. Jehudah bases his dictum upon the *porch* of the Temple, but this is not so! R. Jehudah does not consider the Temple at all, but uses as a basis the palaces of kings, the doors of which attain excessive heights.

What is the law concerning an entry, the cross-beam of which was partly above twenty ells in height and partly below, and also concerning the covering of a booth, part of which was over twenty ells in height and the other part lower than twenty? Said Rabba: "An entry is made invalid by it but a booth is not affected." Why does he say that a booth is not affected by it?

Because we assume that part of the covering of a booth, which is above twenty ells, to be so frail that it does not matter. Cannot the same thing be said concerning the cross-beam of an entry? If this were said with reference to a cross-beam, then it will seem as if there is no foundation for the cross-beam, and it is suspended in mid-air. Is this not the same with a booth? If it be said, that that part of the covering of the booth is so frail that it amounts to nothing, it cannot serve as protection against the sun and there will be more sunshine than shade, and this would make the booth invalid? But, as such is not the case and the frailty of the covering is as a matter of fact only imaginary, it does cause more shade than sunshine, and the booth is not made invalid, why should it not also be the same with the cross-beam, the frailty of which is also only imaginary while in reality it is as firm as if fastened with nails? Said Rabha of Parzekaia: "If such a defect occur in a booth, which is intended for the personal use (of a man), it will be remedied through the thoughtfulness of the man (who is bound to keep the commandment properly), but a cross-beam of an entry which is intended for public use will be neglected, because one man will rely upon another to remedy the defect, as the proverb goes, that a pot used in common is never warm nor cold" (one relies upon another to keep it in its proper condition). Rabhina said: The booth being a fulfilment of a biblical commandment needs no further safeguard, for it will be kept under any circumstances; but the entry being a purely rabbinical institution must not leave any loopholes, by which the entire law may eventually be circumvented.

What *is* the law, finally? Rabba bar R. Ula said, "Both are invalid," and Rabha said, "Both are valid," why? Because the twenty ells refer to the *space* between the ground and the cross-beam or covering, respectively, and even if part of either be above twenty ells, the space is not changed in volume. Said R. Papa to Rabha: I know of a Boraitha confirming this statement: "An entry which is more than twenty ells high and thus is higher than the door of the Temple should be lowered, and the space between the ground and the ceiling in the Temple itself was twenty ells high." R. Shimi bar R. Ashi objected to this: "We have learned further on, how should we remedy the defect in the entry? The cross-beam should be laid below the limit of the twenty ells!" Do not learn in the Boraitha, "below" but "above" the limit of the twenty ells. The Boraitha, however,

distinctly teaches "below"? This "below" refers to a booth which was less than ten spans high and which must be made higher so that the space between the ground and the ceiling should be no less than ten spans, in the same manner as it must not be higher than twenty ells.

Abayi said in the name of R. Na'hman: "The ell used at a booth and at an entry measures five spans, but the ell used at Kilaim is six spans." For what legal purpose does R. Na'hman relate this? This is taught for the purpose of determining the height of an entry and for measuring a breach in the wall of an entry. (If the breach be over ten ells wide, the entry is invalid, and the ell used for measurement is the one of five spans only.) Why is the width of a breach and the height of the entry *only* mentioned? There is also width to be considered in an entry, for did not R. Na'hman state, that an entry must not be less than four ells wide? What ells are these? If they are four ells of the lesser standard, R. Na'hman makes the ordinance more lenient? The ells in an entry, as a rule, are those of the lesser standard, but as for the width, those of the greater standard are used. Further, R. Na'hman said, that the ell used at a booth also measures five spans. For what purpose did he state this? For the measurement of the height of the booth and the crooked walls* of the booth. There is also the width of the booth to be considered, however, and that should be four ells? Will not the ordinance regarding the width be made more lenient thereby of twenty spans only? The ells of a booth generally are of five spans, but as for width the ells measuring six spans are used. What does R. Na'hman intend to specify, by stating that the ells used at Kilaim measure six spans? He refers to seeds planted in the superficies of a vineyard and to a barren spot in a vineyard (as explained in Tract Kilaim). But there is a vineyard in which the vines are planted at less intervals than four ells and the opinions of the sages differ as to whether such a vineyard is called a vineyard in a legal sense (and if the ells be measured according to the statement of Na'hman it is made more lenient? Because if the four ells be of the lesser standard the commandment of Kilaim is not applied.) The statement of R. Na'hman is made for a rule but did not include the above vineyard. The ells of a vineyard are generally used of six spans, but not for the width. But Rabha said in the name of R.

* The crooked walls will be explained in Tract Sukkah.

Na'hman: All ells measure six spans, but in Kilaim are measured with long spans and in entry and booth with short spans to make it more rigorously.

R. Hyya bar Ashi in the name of Rabh said: The several prescribed quantities (as mentioned in Tract Sabbath), the Chatzitzah (intervention of articles at bathing), and the ordinance concerning the walls of an entry and of a booth are ordinances given by Moses at the Mount Sinai. How can it be said, that these are Sinaic laws, they are biblical laws? For it is written [Deutr. viii. 8]: "A land of wheat and barley, and of the vine, and the fig-tree and the pomegranate; a land of the oil-olive and of honey." And R. Hanan said, that the whole verse refers to prescribed quantities: "By wheat is meant, what we have learned elsewhere in a Mishna [Negaim xiii. 9]: If a man clad in garments and shoes entered a house where leprosy was prevalent, he immediately becomes unclean, but his garments, shoes, etc., do not become unclean, until he remains there a length of time sufficient for the consumption of bread of the quantity of two eggs, wheaten bread but not barley-bread, and when eaten in a reclining position with some other dish. By barley is meant, what we have learned elsewhere [Ohaloth ii. 3]: If a bone of a corpse is the size of a (grain of) barley, it makes a body unclean, when touched or carried, but it does not make unclean the contents of a tent, if found therein. By vine is meant: If a Nazarite drink a quarter of a lug of wine he ceases to be a Nazarite and must bring a sin-offering. By fig-tree is meant, that one is guilty of carrying on the Sabbath, if he carries anything of the size or quantity of a dried fig. By pomegranate is meant, what we have learned elsewhere [Khelim xvii. 1]: Any vessel belonging to a household, if it have a hole as large as a pomegranate, is not subject to defilement any more. By a land of the oil-olive is meant a land where all prescribed quantities are of the size of an olive. [All prescribed quantities? What about those just mentioned? Say, a land where the majority of the prescribed quantities are of the size of an olive.] By honey is meant, that if a man ate anything the size of a fresh date on the Day of Atonement, he is guilty."

How can the passage be understood in this manner? No prescribed quantities are mentioned in the passage? We must say, therefore, that those laws are Sinaic, but the passage is merely a mnemotechnical basis for them. And Chatzitzah, is that not also biblical law? It (as) is written [Leviticus xv.

16]: "Then shall he bathe all his flesh in water." By all his flesh is meant, that nothing should intervene between his flesh and the water? The Sinaic law was necessary in order to stipulate, that there should even be no intervention between the hair and the water (not only between the flesh and the water). As was said by Rabba bar R. Huna: "If there was a knot in a single hair, there was certainly an intervention; but if three hairs were tied in a knot, there was certainly no intervention; but if two were tied together, the matter is doubtful to me." But even the ordinance concerning the hair is also biblical? For we have learned in a Boraitha, that by "all his flesh" is meant all attached to the flesh, and that includes the hair. The Sinaic law was necessary in order to stipulate the ordinances concerning the greater and lesser part of the hair, one who is particular with his hair and one who is not, as was said by the dictum of R. Itz'hak: "According to biblical law Chatzitzah is constituted only if the greater part of his hair was encrusted with loam or blood, etc., and the man is particular about his hair, but if he is not, it does not constitute intervention." The rabbinical laws, however, ordained as a precautionary measure, that if the larger part of his hair be encrusted even though he be not particular, it would constitute Chatzitzah, lest one who is particular would not consider it so, and they also ordained, that if the smaller part of his hair was encrusted and he is particular about his hair, it would constitute Chatzitzah, as a precautionary measure, for the sake of the one who has the larger part of his hair encrusted and is also particular about his hair.

The ordinances concerning the walls of a booth and an entry are also biblical? For the master said: "It is written, that the ark was nine spans high and the cover was one span thick, so the ark and cover combined were ten spans high, and this serves as a prescribed height for all walls." The Sinaic laws are necessary for the stipulation of the ordinances concerning Gud,* Lavud,† and crooked walls.

If the entry was higher than twenty ells and is to be lowered,

* In many places of the Talmud the expression Gud is used to signify, that where a wall or a curtain is supposed to reach the ground or to reach the ceiling, and comes within three spans of doing so in either case, they are considered as if they were on a level with the ground or with the ceiling, the expression for the former being Gud Achith and for the latter Gud Assik; literally, "consider it bound down" and "consider it bound up," respectively.

† Lavud, attached. See note §, page 12, Vol. I.

how much lower should it be made? How much lower? As much as is necessary. The question here is, how much of the space below the cross-beam must be diminished in order to make the space only twenty ells high. R. Joseph said: "One span underneath the cross-beam is sufficient"; but Abayi said, four spans, and they differ merely as to the precautionary measure involved; the latter claiming, that one span may be impaired through stepping upon it, while the former holds that there is no danger of such a thing happening.

How is it if the entry was less than ten spans high and sufficient ground had to be excavated in order to make it the prescribed height? How much ground should be excavated? How much? As much as is necessary? The question, therefore, is not as to how much must be excavated in height, but in the width of the entry. R. Joseph said: "For the width of four spans," and Abayi said, "For four ells." (The reason R. Joseph says four spans in this case, while only requiring one span in the above case, is because in the first instance a wall for the entry already existed, and merely the space had to be diminished, but in this instance, if the wall is less than ten spans high, it cannot be considered a wall and by excavating the ground the wall will be made; hence four spans at least must be excavated in order to constitute such a wall, the wall of an entry. Abayi, however, holds that in this case four spans would be insufficient, and at least four ells are necessary, because an entry is not considered such, unless it is four ells wide.)

Said Abayi: "Whence do I know that four ells are required? From the statement of Rami bar Hama in the name of R. Huna, that if a beam protrude from one of the walls of the entry for a distance of less than four ells, it may serve as the side-beam of such entry and be valid, although it was not intended to serve for that purpose. If such a beam protrude for a distance of four ells or more, it is considered as part of the wall and cannot serve as a side-beam, but a new side-beam must be made in order to make the entry valid." (If a beam protrude from a wall of an entry and was even not intended to serve as a side-beam, it may be ever so small, it is considered as a side-beam for the entry and is valid. If it protrude, however, for a distance of four ells or more, and was not originally intended for a side-beam, it cannot serve the purpose, because the entire width of the entry is only supposed to be four ells and for that reason the protruding beam is considered part of the wall. Hence in order to make the entry

valid, another side-beam must be constructed. From this it may be seen, that Abayi bases his opinion concerning the width of the entry upon the dictum of Rami bar Hama, that an entry must be four ells wide.) R. Joseph, however, declares, that the decree of Rami bar Hama does not conflict with his own decision; for it is true that a beam, if it be four ells wide is not considered a side-beam, because it has not the appearance of a side-beam; still the reason for this is not because the width of the entry itself should be four ells, but because the side-beam is too large, and, as for the entry itself, it is sufficient, if it be only four spans wide.

Again, Rami bar Hama said, that if the beam be four ells wide, another side-beam is necessary. Where should the latter be put? Should he add the side-beam to the original beam, the size will be increased (and it will not look anything like a side-beam)? Said R. Papa: "It can be put on the other side of the entry." R. Huna bar R. Jehoshua, however, said, that the side-beam may be added to the original beam, but it should be made either higher or lower than the original beam (in order that it may appear as if it were added). The same R. Huna said also: "All this is said in a case of where the entry was eight ells in width (so that the protruding beam and the entry are of equal width), but if the entry was only seven ells wide and thus the width of the entry is less than the protruding beam, even according to Rami bar Hama, the entry is valid without the addition of another beam, because the entry being narrower than the beam is considered the same as a door." This ordinance is made lenient from an inference of a rigorous ordinance,* viz.: the ordinance concerning a court: If in a court one of the walls is entirely destroyed, nothing may be carried therein on the Sabbath, and neither a cross-beam nor a side-beam placed at the remaining walls alters its character. However, if the wall destroyed was only partially ruined and the remaining portion is larger than the breach, things may be carried therein. Hence in the case of an entry where a side or cross beam suffices for the entire wall, if the wall is wider than the space of the entry proper, in so much

* This is a case of where the peculiar Talmudical expression of Kal Vochomer appears in the text. The literal translation is "light and heavy," *i.e.*, from the lighter to the heavier or from minor to major. In the "Introduction to the Talmud" by Prof. Dr. Mielziner an entire chapter is devoted to the explanation of this term (pp. 130-141). However, no general term can be found to express its meaning, and the expression must be varied according to the demand of the text.

greater a degree is the entry valid for all purposes. R. Ashi, however, says, that even if the entry was eight ells wide, no additional side-beam is necessary, no matter in which way the case is assumed: If it be assumed that the closed part of the entry is wider than the entry itself (through some inaccuracy in construction), then the entry is valid because of that fact, and if it be assumed that the space of the entry is wider, then the closed part which is constituted by the beam may be regarded as a legal side-beam and then the entry is certainly valid; but it might be assumed, that both the closed part and the space were exactly equal; in that event it would constitute a doubtful case based on a rabbinical law, and such a case is always decided with leniency.

Said R. Hanin bar Rabha in the name of Rabh: "If the wall of an entry was broken for a distance of less than ten ells at the side the entry is valid; but if the front of the wall was broken for four ells (assuming that the entry was originally twenty ells wide and in order to make it valid, ten ells had been closed up, and of the ten ells of the new wall, four had been broken) the entry is not valid." Why is the entry valid if the wall was broken for a distance of ten ells on the side, because the breach can be regarded as a door? Why should not the same case apply to the breach in the front? Say that can also be regarded as a door? Said R. Huna bar R. Jehoshua: "In this case the breach is supposed to be in the corner, and a door is not generally made in the corner." R. Huna, however, said, that the same distance applies to both the side and the front of wall. In either case if the breach exceeds four ells, the entry is not valid. And thus said R. Huna to R. Hanan bar Rabha: "Do not dispute with me, for it happened that Rabh came to the city of Damharia and he acted there in accordance with my decree." R. Hanan bar Rabha answered: "This is not sufficient evidence for me, because in that case Rabh acted in a manner that precluded the possibility of doing wrong (*i.e.*, the people there were ignorant and had he given them a liberal interpretation of the ordinance, they would have taken advantage of it and disregarded the law in the future)."

Said R. Na'hman bar Itz'hak: "It seems to me that R. Huna was correct in his opinion from the following: It was taught: An entry made in the form of a right angle should, according to Rabh, be considered as an ordinary entry which is open on both sides and requires an apparent door on one side and

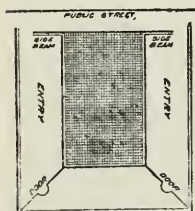
a cross or side beam on the other side, but according to Samuel it must be considered as a closed entry (and at both sides needs only a side-beam). Now, let us see! Shall we assume, that even if the entry was wider than ten ells, Samuel still regards it as a closed entry, and only requires a side-beam at each side; (and this being impossible, therefore we must rather assume, that the entry was only ten ells wide, and still Rabh regards it as an open entry and declares, that it requires an apparent door; hence we see that the breach on the side of the wall must also not exceed four ells in order that it may be regarded as a door. (According to Rabh then, not even ten ells in front can be regarded as a door until an apparent door is added. How can it be said that if a breach measure ten ells at the side it is regarded as a door?) What rejoinder will R. Hanan bar Rabha make? R. Hanan will claim, that an entry made in the form of a right angle is used so much, that it appears like public ground (hence an apparent door must be made, but as for a court, which is not used as a thoroughfare, even ten ells may appear like a door).

The Rabbis taught: How are entries facing public ground combined by an Erub? On one side an apparent door should be made and on the other a cross and side beam should be put up. Said Hananiah: The school of Shamaï said, that doors should be made at both entries where they face the street, and when going out or entering, the man should close the door. The school of Hillel, however, said, that at one side a side and a cross beam should be made and at the other a door should be made. Commenting upon this, Rabh said, that the Halakha prevails according to the first Tana, and Samuel said, that it prevails according to Hananiah.

The schoolmen propounded a question: "Is a man, according to the opinion of Hananiah, quoting the school of Hillel, obliged to close the door or not?" Come and hear. R. Jehudah said in the name of Samuel, that he is not obliged to close the door. R. Mathna added: I was placed in that position at one time and Samuel said to me, that it must not be closed.

There was an entry (as shown in the illustration) at the city of Neherdai, to which the rigorous ordinances of both Samuel and Rabh were applied and doors were ordered to be made.

The rigorous ordinance of Rabh is the one pertaining to an entry which was made in the form of a right angle, and was



declared by him to be regarded as an open entry and in this case there were two openings towards the street. [Did not Rabh say above that the Halakha prevails as the first Tana? In this case the rigorous ordinance of Samuel was applied, who said, that the Halakha prevails according to Hananiah. But did not Samuel say, that an entry made in the form of a right angle is to be considered as a closed entry, and requires only side-beams? In this instance again the rigorous ordinance of Rabh was applied and it was regarded as an open entry, and at an open entry, according to Hananiah, quoting the school of Hillel, doors are also required.]

May, then, the rigorous ordinances of two Tanaim be applied to one case? Have we not learned in a Boraitha, that at all times the Halakha prevails according to the school of Hillel, but he who wishes to act in accordance with the school of Shamai, may follow that school exclusively both in the lenient and the rigorous ordinances, and he who wishes to act in accordance with the school of Hillel may follow *that* school exclusively in both lenient and rigorous ordinances. He who only follows the more lenient ordinances of both schools is a sinner, and he who follows only the more rigorous ordinances of both schools is referred to by the passage [Ecclesiastes ii. 14] as "the fool walketh in darkness."

Said R. Na'hman bar Itz'hak: The entry made in Neherdai was made in accordance with the decision of Rabh solely, but did not Rabh say, that the Halakha prevails according to the first Tana? R. Huna said in the name of Rabh, that the Halakha in theory remains according to the first Tana, but it should not be carried out in practice. But according to R. Ada bar Ahabha, who said in the name of Rabh, that the Halakha prevails according to the first Tana and should be carried out accordingly, was not the entry in Neherdai made according to the more rigorous decisions of both schools of Shamai and Hillel? Said R. Shezbi: It is not allowed to act in accordance with too rigorous ordinances of two schools only when they conflict with one another (*e.g.*, the ordinances concerning the back and the head as will be explained in Chulin). Wherever they do not conflict, however, they may be applied in one and the same case.

R. Joseph was sitting in the presence of R. Huna, and said: "R. Jehudah said in the name of Rabh, that the first Tana and R. Hananiah differed only when the entry faced a market on both sides; but if on one side there was public ground and on

the other was a valley which was considered unclaimed ground, all agree that an apparent door should be made on one side and a cross or side beam on the other side." R. Joseph then continued in the name of R. Jehudah alone and stated, that if the entry opened on one side into a vacant yard which in turn opened into public ground, nothing need be made at either end of the entry.

Said Abayi to R. Joseph: What R. Jehudah is supposed to have said himself, was in reality a decree of Samuel, because were it a decree of Rabh, he would contradict himself in either of two instances; for R. Jeremiah bar Abba said in the name of Rabh: "If the wall of an entry opening into a courtyard be entirely destroyed, and the wall between the courtyard and the street was broken only for a distance of less than ten ells, the courtyard is not invalidated but the entry is." Why! Say rather that the entry in this case is equal to one that faces a vacant yard, and, according to R. Jehudah, needs nothing at either end. (Where the contradiction in either of the two instances occurs is as follows: If R. Jehudah means to state, that the entry needs nothing at either end because it is an open entry, that would contradict Rabh in one instance, as R. Jeremiah bar Abba relates, that the entry is invalidated because it is made an open entry. If we assume, however, that R. Jehudah holds an entry, opening into a vacant place, to be valid even if nothing is made at either end, because the place was *vacant* and there were no inhabitants who could invalidate the entry by refusing to combine in an Erub, but, if there were inhabitants in that place, the entry would have been invalid unless provided with the necessary appliances. Here, however, Rabh, according to R. Jeremiah bar Abba, invalidates the entry because it is an open entry and not because of the inhabitants, and hence there would be contradiction in the other instance.)

Said R. Joseph to Abayi: "I know not whose decree R. Jehudah cited, but it happened in the village of a shepherd, that there was an entry which opened into a vacant yard and R. Jehudah was asked whether it was necessary to provide the entry with an apparent door or beams, and R. Jehudah answered that it was not. If this is contradictory to the opinion of Rabh, then let it be attributed not to him but to Samuel, and there will be no contradiction." Now what R. Shesheth said to R. Samuel bar Abba or, according to another version, to R. Joseph bar Abba, namely: I will explain to you, that the decree of

Rabh is not permanent. There are times when Rabh himself holds that the entry is valid, and this occurs, if the inhabitants of the courtyard and the entry made a joint Erub (common cause); but when such was not the case, he holds the entry to be invalidated, which proves to us, that the decree of R. Jehudah concerning the entry in the village of the shepherd may have also been in conformity with the opinion of Rabh, because the vacant yard had no inhabitants with whom the inhabitants of the entry could have made an Erub; for the decree of R. Jeremiah bar Abba in the name of Rabh does not invalidate the entry *because* it is made an open entry, but *because* there were no inhabitants in the vacant place with whom the inhabitants of the entry could combine in an Erub.

R. Joseph said: "When R. Jehudah declared, that an entry which opens into a vacant yard is valid even when nothing had been made at either end, he intended to state, that such was the case if the entry opened into the *centre* of the vacant yard, but if it opened into one side of the yard it is not valid." Said Rabba: "Even if the entry opened into the centre of the vacant yard, it is only then valid, provided it is not exactly opposite the opening of the yard into the street; if it *is* directly opposite, however, the entry is invalid. Said R. Mesharshia: "Even if the entry is *not* opposite the opening of the vacant place into the street, it is valid only if the vacant place was public property, but, if belonging to an individual (who might build on it and rent it to others), it will become equal to an entry which faces the sides of a vacant place and is not valid. Whence do you know, that there is a difference between public property and individual property? This is known from the narrative of Rabhin bar Ada concerning an entry which faced the sea (see Chapter X., Mishna 4).

There was another entry made in the form of a right angle and a mat was placed at the angle. R. Hisda said in reference to this: "This is neither in accordance with Rabh nor with Samuel. According to Rabh, who considers an entry of this kind as an open entry, an apparent door would be necessary, and according to Samuel, who considers it as an entry closed at one end, a side-beam would be necessary; and this mat is neither one nor the other, because it might be blown away by the wind and would leave nothing behind." If, however, the mat was fastened with a nail so that it could not be blown away, it is sufficient.

It was taught: An entry made in the form of a centipede (*i.e.*, an entry containing a number of smaller entries which on one side faced a street and the principal entry also faced a street) should, according to Abayi, be provided with an apparent door, and the smaller ones should be provided with a side and cross beam where they face the street. Said Rabha to Abayi: "According to whose opinion is this? According to Samuel's, who holds, that such an entry is to be regarded as a closed entry; then why is an apparent door necessary? Secondly, we know that in the case of the entry made in the form of a right angle at Neherdai, the decision of Rabh was also respected." Therefore the decree of Rabha is, that apparent doors should be made at the smaller entries where they face the large entry, and the sides facing the street only need a side or cross beam.*

Said R. Kahana bar Tachlipha in the name of R. Kahana bar Minyumi in the name of R. Kahana bar Malchiyu, quoting R. Kahana the master of Rabh [according to others, R. Kahana bar Malchiyu himself was the master of Rabh]: "An entry, one side of which was wide and the other narrow, should, if the wider side be less than four ells, be provided with a cross-beam laid obliquely, but if it measured fully four ells, the cross-beam should be laid on the narrow side." Rabha, however, said, that in either case, the cross-beam should be placed on the narrow side. "And," he continues, "I will state the reason for my opinion, and the reason for the previous opinion: In my opinion a cross-beam is necessary merely to serve as a sign, and if laid obliquely it cannot be seen and thus would not be a sign. According to the opinion of the previous teachers, the cross-beam serves as a wall, and if such is the case, a wall can be a wall even if placed obliquely." Said R. Kahana: "This being a decree by Kahanim, being myself a Kahan I will also venture to say something: The cross-beam must be placed obliquely if the oblique part does not measure more than ten ells." If it was more than ten ells, however, all agree that it must be placed on the narrow side only.

The schoolmen propounded a question: "May the space underneath the cross-beam be used?" Rabh, R. Hyya, and R. Johanan said, that it may be used. Samuel, R. Simeon ben Rabbi, and Resh Lakish said, that it must not be used. Said

* According to another version the apparent doors should be made where the entries face the street, but we cite the opinion of Rashi as usual.

R. Hisda: All agree that if a side-beam *is* used, the space opposite* the side-beam must on no account be used.

Rami bar Hama asked R. Hisda: "If one drove two posts on the outside of an entry and placed a cross-beam on top of them, how is the law concerning the entry?" He answered: According to those who hold that the space underneath the cross-beam may be used, the entry is invalid, but according to those who hold, that the space underneath the cross-beam must not be used, the entry is valid (*i.e.*, those who hold that the space underneath the cross-beam must not be used regard the *inside* edge of the cross-beam as if it made a solid wall to the entry; hence the entry is valid because it is considered a closed entry, and if the posts and cross-beams are on the outside, the entry is nevertheless closed and valid; but those who hold that the space underneath the cross-beam must not be used, regard the *outside* edge of the cross-beam as the closing wall of the entry; hence there will be an open space between the entry and the outside posts and cross-beam, and the entry is made invalid). Rabha, however, said that even according to the opinion of those who hold that the space underneath the cross-beam must not be used, the entry is invalid because the cross-beam must be recumbent upon the entry proper and not upon the outside.

R. Zakai taught in the presence of R. Johanan: The space underneath the cross-beams and alongside of the side-beams is considered unclaimed ground (*i.e.*, that one must not carry things in that space on Sabbath). Said R. Johanan to him: "Go and teach such things outside of the college." Said Abayi: "It seems to me that R. Johanan's opposition to R. Zakai was only as far as the space underneath the cross-beam is concerned, but alongside of the side-beams it is prohibited to carry." Rabha, however, said: Even alongside of the side-beams it is also allowed to carry.

Said R. Huna bar R. Jehoshua to Rabha: "Thou dost not think, that it is prohibited to carry things alongside of the side-beams?" Did not Rabba bar bar Hana say in the name of R.

* In the text is written "Bain," "between" the side-beams. Rashi, however, declares that here it does not mean *between* the side-beams, but *opposite*, as between the side-beams *cannot* be possible, because every entry must have only one side-beam, and Rashi says the reason that the text states "between" is, that the text mentions the side-beams in plural, meaning many entries, and the word *Neged* in Hebrew, which means "opposite," cannot be said in plural.

Johanan, that an entry which was provided with a number of side-beams the space between each of which did not measure four spans, causes a difference of opinion between R. Simeon ben Gamaliel and the sages. According to R. Simeon, an object becomes "lavud" (attached) to another object even when the distance between them is four spans, but according to the sages, the distance must not exceed three spans. Hence in the case just mentioned (see illustration) according to R. Simeon all the beams are regarded as one by virtue of their being "lavud" to each other, and a man must not carry anything beyond the space alongside of the inside edge of the beam farthest from the opening of the entry, while, according to the sages, who regard only the beam nearest the opening of the entry essential and the others unnecessary, a man may carry things as far as the space alongside of the inside edge of the beam nearest the opening of the entry. In the space between the side-beams all agree that it is prohibited to carry. Now, if R. Johanan permitted the carrying of things alongside of the side-beams, how could he state the difference of opinion between R. Simeon and the sages in this case? For whether all the beams were considered as one or each separately, what difference would it make as long as things may be carried in the space between them? Hence we must say, that R. Johanan does not permit the carrying of things alongside of the beams? In this instance, Rabha might declare, that the entry is presumed to be one that opens into unclaimed ground. How would the case be if the entry opened into public ground? Would it be allowed according to R. Johanan to carry things between the side-beams? Shall the native remain on earth and the stranger be lifted up to the highest heaven? * Yea; objects of like character assimilate, *i.e.*, the space between the side-beams being unclaimed ground and the entry opening into unclaimed ground, the two are virtually combined, and as carrying in unclaimed ground is not allowed to commence with, it is also not allowed in the space between the beams.

R. Ashi said, however: The case referred to, *viz.*, the entry containing many side-beams, is assumed to be one where the side-beams were erected for a distance of four ells and were less

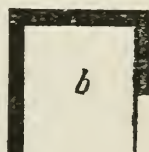
* An expression used to signify astonishment at an unnecessary or superfluous question, the answer to which is self-evident.

than four spans apart. If, according to R. Simeon, the beams are all "lavud" to each other, they would constitute a separate entry in the principal entry, and in order to carry things in the space between the beams another side-beam would have to be erected for the newly made entry; but according to the sages, who do not consider the beams "lavud" to each other, another side-beam is not necessary. (This means to say: R. Johanan holds, that under any circumstances the space between the side-beams may be utilized (for carrying) and the difference caused by such an entry between R. Simeon ben Gamaliel and the sages is not as to whether things may be carried in the space between the beams or not, as stated before, but whether another side-beam is required in addition to those already erected or not.)

It was taught: If a side-beam was made to an entry which on the inside of the entry could be plainly seen but on the outside seemed to be on a par with the wall and hence not recognizable, it is regarded as a proper side-beam, but if it could be plainly seen on the outside, but on the inside it seemed to be part of the wall and could not be distinguished from the wall, it gives rise to a difference of opinion between R. Hyya and R. Simeon the son of Rabbi. One holds, that it may be regarded as a proper side-beam, and the other, that it cannot be so regarded.

It is correctly ascertained that R. Hyya is the one who holds that it may be regarded as a proper side-beam, from his decision as follows: "If one of the walls of an entry was partially removed

(see illustration *a*), so that the lacking portion could be perceived from the inside of the entry but not from the outside of same, or if part of the wall was missing (see illustration *b*), so that it could be readily per-



ceived on the outside of the entry but not on the inside, in either case the impaired wall is regarded as a side-beam."

Rabba bar R. Huna taught the same: "If a side-beam was recognized on the outside of an entry but could not be distinguished on the inside it is nevertheless regarded as a side-beam." Said R. Joseph to him: "I never heard such an ordinance proclaimed by thy father." Said Abayi to R. Joseph: "Didst thou not thyself teach this ordinance when we learned the following: Rami bar Abba said in the name of R. Huna, that a side-beam, which was affixed to the end of a wall so that it could

be seen from the outside but seemed to be a continuation of the wall from the inside, is regarded as a side-beam, if measuring less than four ells and the entry may be used from the inside edge of such beam, but if the side-beam measured four ells, it is regarded as a separate entry, and thus the entry proper, not having any side-beam, is made invalid. Thou didst comment upon this and say, that from this teaching we may adduce three things. Firstly, that the space alongside of a side-beam must not be used; secondly, that four ells is the minimum measure of an entry; and, thirdly, that if a side-beam can be recognized on the outside but not on the inside of the entry, it is a proper side-beam." Finally, the Halakha concerning a side-beam recognizable from without but not within the entry prevails: that the side-beam is valid because such was the decision of R. Hyya, as is mentioned above.

"Should it be wider than ten ells, it must be made narrower."

Said Abayi: We have learned in a Boraitha concerning this teaching, that R. Jehudah regarded this as unnecessary.

How much narrower should it be made? R. A'ha wished to state, in the presence of R. Joseph, that if the entry measured twenty ells, it should be reduced to thirteen and a third ells.

He wished to infer this lenient measure from the more rigorous in the case of a well. The wells were built as illustrated, and the distance between the two enclosures on the same side was thirteen and a third ells; *i.e.*, large enough to permit of the entrance and exit at the same time of two teams of oxen and was larger than the space occupied



by the enclosures on the same side. Now, if in that case it was permitted to have the space larger than the space occupied by the enclosures, and thirteen and a third ells only were allotted to such space, an entry where the space must not be more than the enclosure should certainly not be over thirteen and a third ells wide? How can the two be compared? Perhaps the reason, that no more than thirteen and a third ells were allowed for the space of the wells was because a concession had already been made in permitting the space to be larger than the walled part and no further leniency was expedient. In the case of the entry, however, where no concession had as yet been made, let it be allowed to increase the width of the space beyond thirteen and a third ells (because it serves the purpose of a door)? Or on the contrary! A concession having been made in the case of the

well, but no concession having been made concerning an entry, let the law of the entry be enforced without any concession and make the prescribed width ten ells only. (Thus the question remains undecided.)

Levi taught a Boraitha as follows: "In an entry which is twenty ells wide it is sufficient if a stick be placed in the centre of such entry." He himself however decreed, that the Halakha does not prevail according to the Boraitha. What then should be done? Samuel said in the name of Levi: "A pole should be erected in the centre of the entry ten spans high and four ells wide, and a cross-beam placed on top of it parallel with the walls of the entry, which would then serve as a partition in the centre." Or it should be done as R. Jehudah declared: In an entry fifteen ells wide a pole should be erected two ells from one of the walls and a cross-beam extending three ells into the centre of the entry should be placed on top of the pole. (Thus the width will be lessened five ells, the two between the wall and the pole being regarded as a closed door. In the case of an entry twenty ells wide this may be done on both sides of the entry, or the pole may be erected four ells from the wall and the cross-beam extended six ells.) If the people who make use of the entry, however, should use the space of two ells between the wall and the pole in preference to the wider opening of the entry, will not the principal entry be invalidated by the lack of a side-beam? Said R. Ada bar Mattue: It is an established fact that people will not use the smaller entrance in preference to the larger. Why is this case different from the one taught by R. Ami and R. Assi, for we have learned in a Boraitha: If there was a breach in the side of a wall close to the entry, it was taught in the name of R. Ami and R. Assi (page 5a in the original text), that if the strip of wall left was four ells wide, it matters not if the breach was ten ells; but if the strip is less than four ells, the breach must not exceed three ells, otherwise the entry is invalid. (Now if the strip is four ells, and the breach ten, the breach is regarded as a door, and it might be used in preference to the main entrance. In the former case, only such as will be nearer the side entrance will use it, but in this case, the main entrance will be used exclusively, because one will not unnecessarily go in a roundabout way.)

"But if it have the appearance of a door, even though it be wider than ten ells it need not be made narrower."

Now we see that an apparent door may be used where the

entry is too wide and a cross-beam if it be too high, what would be the law if the reverse were made? Come and hear: We have learned: "If an entry be higher than twenty ells, it should be reduced, but if it have the appearance of a door, this is not necessary." What is the law concerning a cross-beam when the width of the entry was excessive? Come and hear: We have learned: "If an entry be higher than twenty ells it should be lowered and if it be wider than ten ells it should be reduced, but if it have an appearance of a door it is not necessary and if it have a cross-beam it is also not necessary." Could we not assume, that the cross-beam refers to the latter clause of that teaching (the excessive width of the entry)? Nay; it refers to the first clause of the teaching (the height).

R. Jehudah taught Hyya the son of Rabh in the presence of Rabh: "It is not necessary to reduce (the width of an entry if it have a cross-beam)." Said Rabh to R. Jehudah: "Teach him, that it should be reduced." Said R. Joseph: From this teaching of our Master we can learn, that a courtyard, of which the greater part of the walls consists of doors and windows and one of the walls contained a breach of over ten ells, the appearance of a door would not make it valid (*i.e.*, things could not be carried in the courtyard on Sabbath). Why so? Because we see, that width exceeding ten ells makes an entry invalid, and space in excess of that occupied by the walls makes a courtyard invalid; now, we compare an entry which is wider than ten ells and is held by our Master to be invalid even if it have the appearance of a door, to a court which has a breach exceeding ten ells, and is also not made valid by an apparent door.

R. Johanan also holds in accordance with the teaching of Rabh, for Rabhin bar R. Ada in the name of R. Itz'hak said: It happened that a man of the valley of Beth Hurtan placed four piles in the four corners of his field and connected the four piles with branches at the top for the purpose of circumvening the law of Kilaim. When this was told to the sages, they allowed him to do so for the purpose intimated (*i.e.*, the field was regarded as if surrounded by a wall, and he could sow other seeds on the outside of the seeming wall), and Resh Lakish said: "In the same manner as the sages permitted the man to do this for the purpose of circumvening the law of Kilaim, so also did they allow him to do it for the purpose of the Sabbath law. R. Johanan, however, said, that this was allowed only for Kilaim purposes but not for Sabbath." (Whence we see that R.

Johanan holds with Rabh that an entry over ten ells in width is not remedied by a seeming door.)

R. Hisda said: "If a man made a seeming door in the side of a wall, it counts for nothing." And he said again: "A seeming door must be firm enough to be able to contain an actual door, even though it be only a door of straw."

Resh Lakish said in the name of R. Janai, that an apparent door must have a place fit for the attachment of hinges. What is meant by a place fit for the attachment of hinges? Said R. Ivia: A receptacle for same.

R. A'ha the son of R. Ivia found once the disciples of R. Ashi, and he asked them: "Did the master say anything about apparent doors?" and they answered him: "Nay; he said nothing."

A Boraitha stated: "By an apparent door is meant simply two poles set up perpendicularly one on each side and a pole across the top of the two." Must the pole above be attached to the two perpendicular poles, or is it sufficient if it is suspended above them? R. Na'hman said, they need *not* be attached, but R. Shesheth said they must be. R. Na'hman did in accordance with his own decision at the house of the Exilarch (R. Na'hman was a son-in-law of the Exilarch). Said R. Shesheth to his servant, R. Gada: "Go, take it down and put it away." He went, took it down, and put it away. The servants of the Exilarch found him doing so and arrested him for it. Then R. Shesheth went and stood on the outside of the prison and called out: "Gada, come out!" Gada came out and went with R. Shesheth.

R. Shesheth met Rabba the son of Samuel on the street; and he asked him: "Did the master teach anything concerning an apparent door?" Rabba answered: "Yea! We have learned concerning an arch, R. Meir decreed, that a Mezuzah (sign on the door-post) must be fastened to it, but the sages say, that it is not necessary." (The reason the sages say, that a Mezuzah is not necessary is because the zenith of the arch is not four spans wide, and no door is properly a door that is not at least four spans wide.) All agree, however, that if the arch is ten spans wide at its base (*i.e.*, before the curve commences, then it is certain that for at least ten spans upwards the arch has a width of four spans), a Mezuzah is necessary, and Abayi said: "All agree, that if the arch is ten spans high and the base is less than three spans wide, or if the base is three spans wide but the arch is less than ten spans high, no Mezuzah is necessary (because a door cannot be

less than ten spans high), but wherein do they differ? In a case where the base of the arch was less than four spans wide, and the arch itself ten spans high, but at the top of the arch the width could, by hollowing out the wall, be increased to four spans' width, R. Meir holds that a Mezuzah is necessary, because the possibility of increasing its width renders it equivalent to having been increased, but the sages hold that a Mezuzah is not necessary, because it had not yet been increased in width." (Thence we see that R. Meir holds that the possibility of accomplishing an act renders it equivalent to having been performed, and, in consequence, he holds that if a pole was merely suspended above two poles it is the same as if it were placed on top of the poles.) Said R. Shesheth to him: "If thou shouldst meet the members of the house of the Exilarch, tell them nothing of the Boraitha concerning the arch."

MISHNA: To legalize (the carrying within) an entry, Beth Shammai hold that a side and cross beam are required, but Beth Hillel hold, that either a post or a beam is sufficient. R. Eliezer said, "Two side-beams are necessary." In the name of R. Ishmael, a disciple stated before R. Aqiba: "Beth Shammai and Beth Hillel do not differ as to an entry less than four ells in width, for both agree, that such an entry becomes legalized either through a cross-beam or a side-beam." Wherein do they differ? Concerning entries of more than four and up to ten ells in width. Regarding these, Beth Shammai hold, that both a side and cross beam are necessary, and Beth Hillel hold, that either a side or a cross beam is sufficient. R. Aqiba, however, said: "They (the two schools) differ in both instances."

GEMARA: According to whose opinion is the Mishna? It is neither according to the opinion of the first Tana nor to that of Hananiah (see page 10). Said R. Jehudah: The Mishna means to state the following: "To legalize a closed entry (one enclosed on three sides) Beth Shammai hold that a side and cross beam are necessary, while Beth Hillel hold, that either one is sufficient." Shall we assume that in order to constitute a private ground from a biblical point of view, according to Beth Shammai, four walls are necessary (because the entry by the addition of a side and cross beam would be turned into a seeming wall)? Nay; throwing to or from public ground in ground enclosed by three walls, makes one culpable from a biblical point of view, but carrying is permitted only in ground enclosed by four walls by the rabbinical law, according to Beth Shammai.

Shall we assume that Beth Hillel hold, that three walls, according to biblical law, are necessary? Nay; from a biblical point of view, throwing to or from public ground in ground enclosed by two walls makes one culpable, but carrying is not permitted in ground unless enclosed by three walls by rabbinical law, according to Beth Hillel.

“*R. Eliezer said, ‘Two side-beams are necessary.’*” The schoolmen propounded a question: “Did R. Eliezer mean to state, that two side-beams *and* a cross-beam are necessary or two side-beams alone?” Come and hear: It happened that R. Eliezer was going to R. Jose ben Preida, his disciple, in the city of Ublin, and he found him sitting in an entry provided with only one side-beam. Said R. Eliezer to him: ‘My son, erect another side-beam.’ Said his disciple to him: ‘Must I then close the entry?’ and he answered: ‘Close it; what matters it if it be closed?’ Now, from the words of the disciple, “Must I then close it?” we can infer, that it was already provided with a cross-beam, and, therefore, the disciple asked what more he must do, close it entirely? Then, if we assume that there was only a side-beam, why should the disciple have said, “Must I close it entirely?” Nay; the disciple may have simply meant to ask, must he close it up entirely with side-beams; and it may be, that there was no cross-beam there at all.

(In the same Tosephta) we are taught so: R. Simeon ben Gamaliel said: “Beth Shammai and Beth Hillel do not differ as to an entry that was less than four ells in width.” According to both schools, for such an entry nothing at all need be provided. Wherein they do differ is an entry that is more than four ells wide and up to ten; Beth Shammai hold, that a side and cross beam both are necessary, and Beth Hillel hold, that either is sufficient. Did not our Mishna state that a disciple in the name of R. Ishmael stated before R. Aqiba: “Beth Shammai and Beth Hillel do not differ as to an entry less than four ells in width, for both agree, that such an entry becomes legalized either through a cross-beam or a side-beam”? Said R. Ashi: “R. Simeon ben Gamaliel means to state, that a side *and* cross beam are not necessary according to the opinion of Beth Shammai, nor two side-beams according to the opinion of R. Eliezer, but one of the two, either a side or cross beam according to the opinion of Beth Hillel” (*i.e.*, by saying that for such an entry nothing need be provided, R. Simeon ben Gamaliel means to state, that nothing *added* by Beth Shammai or R. Eliezer need be provided).

An entry of how much less than four ells in width? Said R. A'hlai, according to another version R. Ye'hiei: "An entry of less than four spans need have nothing (and from four spans up to four ells, the side or cross beam is necessary)."

Said R. Assi in the name of R. Johanan: "A courtyard must have two enclosures." Said R. Zera to R. Assi: "Did R. Johanan indeed say so. Didst thou not thyself state in the name of R. Johanan, that the enclosures of a courtyard must measure at least four ells? And if thou wouldst explain R. Johanan's dictum to signify, that the enclosures would have to be four ells on each side of the angle, did not R. Ada bar Abhimi state before R. Hanina or before R. Hanina bar Papa, that a small courtyard need only have enclosures to the extent of ten ells all around and a large courtyard to the extent of eleven ells." (Now, if eleven ells are divided by four, that would make each of the four enclosures only two and three-quarter ells?) When R. Zera came from his sea-voyage he explained this in the following manner: If an enclosure was made straight on one side it must be four ells wide, but if made at an angle in the corner it is sufficient if ever so small a part be on each side. As for Ada's bar Abhimi statement above, it is in accordance with the decree of Rabbi (and not R. Johanan), who holds in accordance with R. Jose (that every side-beam must be three spans wide), as will be seen further on.

R. Joseph said in the name of R. Jehudah, quoting Samuel: "A courtyard need have but one enclosure." Said Abayi to him: "Did Samuel indeed say this? We know that Samuel said to R. Hananiah bar Shila: 'Thou shalt not perform any work in a courtyard that has not the larger part of a wall or two enclosures!'" Said R. Joseph: "I do not know whether Samuel said so or not, but I do know, that it happened in the village of the shepherds, that an arm of the sea flowed into a courtyard, and when R. Jehudah was asked what the law was concerning that courtyard, he replied: 'Only one enclosure is necessary.'" Then Abayi rejoined: "Thou speakest of an arm of the sea; that is altogether different! The sages were very lenient with all things pertaining to water, as R. Tabla asked Rabh: 'What is the law concerning a ruin that had one suspended partition? May things be carried within it on Sabbath or not?' and Rabh answered: 'A hanging partition legalizes a place only where water reaches, because the sages were very lenient with all things pertaining to water.'"

In any event this would be a contradiction to R. Jehudah's statement in the name of Samuel, and to Samuel's statement to Hananiah. When R. Papa and R. Huna the son of R. Jehoshua came from college, they explained Samuel's decree thus: "On one side the enclosure must be at least four ells, but when made on a corner, ever so small a part of the enclosures on each side of the angle is sufficient." (Thus both statements may be correct. R. Jehudah's one enclosure refers to a straight enclosure and Samuel's two refer to an enclosure at each corner.)

The Rabbis taught: From an arm of the sea, which enters a courtyard, water must not be taken on Sabbath unless a partition has been made at the entrance at least ten spans in height. This is the case if the breach in the wall (where the sea entered) is more than ten ells in width, but if it was only ten ells, no partition is necessary.

Thus, you say, that water must not be taken from the arm of the sea, but things may be carried within the courtyard? Did not the breach in the wall open into ground that would invalidate the courtyard (*i.e.*, unclaimed ground)? In this case fragments of the wall were left beyond the breach and they were inundated by the sea (but were originally ten spans high).

It was taught: R. Jehudah said: "An open entry which is not suitable for the purpose of combining in an Erub, if it was provided with a side-beam, anyone throwing a thing into it from public ground is culpable, but if the entry was provided at one end with a cross-beam, one who throws a thing into it from public ground is not culpable." (R. Jehudah holds, that from a biblical point of view three partitions are necessary to enclose a private ground, and a side-beam at the end of an entry is equivalent to a partition.) Hence R. Jehudah holds, that a side-beam is equivalent to a partition, and a cross-beam is only put up for appearance's sake. So is also the opinion of Rabba; but Rabha said that both are erected only for appearance's sake.

R. Jacob bar Abba made an objection to Rabha based on the following Boraitha: "If one throw a thing into an entry he is culpable, if the entry is provided with a side-beam, but if it is not provided with a side-beam, he is not culpable." This is explained thus: If the entry (was a closed one and) needs only a side-beam (for appearance's sake) one is culpable if he throws a thing into it; but if a side-beam alone would not legalize the entry, and something more is necessary, the thrower is not culpable.

Said R. Jehudah in the name of Rabh: "An entry that was equal in length and width cannot be legalized by a side-beam of small proportions," and R. Hyya bar Ashi in the name of Rabh said, that an entry as wide as it is long cannot be legalized with a cross-beam measuring only one span. Said R. Zera: "How well the decisions of the old sages agree! The reason for the above decision is, that an entry of equal length and breadth is not regarded as an entry at all, but is in reality a courtyard, and a courtyard cannot be legalized by a side or cross beam but must have a partition of at least four ells." Said R. Zera again: "If there is a difficulty in this decision the following would be the difficulty: Why do they not consider a side-beam a partition of *some* extent, and thus make it a medium of legalization?" It evidently slipped the memory of R. Zera, that R. Assi said in the name of R. Johanan: "The enclosures of a court must not be less than four ells."

Said R. Na'hman: "There is a tradition to the following effect: Which is the entry that can be legalized by a side or cross beam? One, the length of which exceeds its width, and houses and courts open into it. Which is the court that cannot be legalized with a side or cross beam, but must have an enclosure which is not less than four ells? One that is square." Only if it be square, but if round is it not a court? He means to state this: If the length exceeded the width, although it be a court, it should not be considered such but must be regarded as an entry, and as such may be legalized with a side or cross beam. If the length, however, did not exceed the width? Then, no matter what its appearance was, it must be considered as a court. By how much must the length exceed the width? Samuel intended to state, that the length should be double the width. Said Rabh to him: "So said my uncle, 'Even if the length exceeded the width by a trifle.'"

R. Aqiba said: "They differ in both."

What does R. Aqiba teach us hereby? Is it not the same as the teaching of the first Tana? The difference between them is as stated by R. A'hli, according to another version R. Yekhiel, viz.: An entry of less than four spans need have nothing. But they did not specify who was of R. A'hli's opinion and who was not.

We have learned in a Boraitha: R. Aqiba said: "R. Ishmael never made such a statement, but the disciple said this upon his own authority and the Halakha prevails according to the disciple."

Is this not a contradictory assertion? First, he says, that R. Ishmael could not have made such a statement, *i.e.*, that the Halakha is not so, and then that the Halakha prevails according to the disciple? Said R. Jehudah in the name of Samuel: "R. Aqiba said this only in order to encourage his disciples, that they may pronounce decrees upon their own authority." R. Na'hman bar Itz'hak said: "R. Aqiba really said that R. Ishmael made no such statement, but the decree of the disciple was correct and should stand."

It was taught: R. Jehoshua ben Levi said: "In every case, where it is stated that a disciple said in the name of R. Ishmael before R. Aqiba, that disciple is R. Meir, who was a disciple of both R. Ishmael and R. Aqiba."

R. A'ha bar Hanina said: It is known to Him, Who said one word and the world was created, that in the generation of R. Meir there was not one who was his equal; but why do not the Halakhas prevail according to his decisions? Because his colleagues could never arrive at the conclusion of his decrees. If he decided that a thing which was unclean was clean, he proved it to them by a reason, and *vice versa*. We have learned in a Boraitha, that his name was not Meir but Neherai. Why was he called Meir? Because he *enlightened* * the eyes of his colleagues in Halakhas. Where the name R. Neherai is mentioned, it refers to R. Nehemiah or to R. Eliezer ben Arach. Why do they call them Neherai? Because they *clarified* the vision of their colleagues in the Law.

Rabbi (according to some it was Rabh) said: Why am I more sagacious than my colleagues? Because I once saw the back of R. Meir, and if I could look upon his face I would be more sagacious still, as it is written [Isaiah xxx. 20]: "But thy eyes shall see thy teachers."

Said R. Abbahu in the name of R. Johanan: "R. Meir had one disciple, and his name was Symmachos, who could give forty-eight reasons for the uncleanness of unclean things and the same number of reasons for the cleanness of clean things."

Said R. Abba in the name of Samuel: Three years the school of Shammai and the school of Hillel disputed. One school said that the Halakhas prevail according to their opinion,

* Meir in Hebrew means, He makes light. Nehorah in Chaldaic is the same as our (light) in Hebrew; consequently Neherai in Chaldaic is the same as Meir in Hebrew.

and the other claimed that their decrees should stand. Finally a heavenly voice was heard to the effect that both schools disputed as to the words of the living God, but the Halakhas prevail according to the school of Hillel.

Now if it be true that both schools dispute as to the words of the living God, why should the school of Hillel be thus favored? Because the members of the school of Hillel were modest and patient, and would always repeat the words of the school of Shammai. Not alone this; but they also always gave the school of Shammai precedence when citing their teachings, as we have learned (in Tract Sukkah): Said Beth Hillel to Beth Shammai: "Did it not happen, that the eldest of the school of Shammai and of the school of Hillel went together to visit R. Johanan the son of Hachoranis, etc. (whence we see that the eldest of the school of Shammai were given precedence over those of the school of Hillel)." Thence thou canst learn, that everyone who maketh himself humble is raised up by the Holy One, blessed be He, and one who is arrogant is humbled by the Holy One, blessed be He. He who pursueth greatness, the greatness escapeth him, and he who avoideth greatness is sought by greatness. He who forceth time (*i.e.*, he who perforce would become rich though fortune be against him), time oppresseth him, while he, who awaiteth his time, is assisted by time.

The Rabbis taught: Two years and a half Beth Shammai and Beth Hillel disputed amongst themselves. One school declared, it were better that man had not been created as he was, while the other declared it was better that man had been created as he was, than not to be created at all. Finally they came to the conclusion, that it were better had man not been created, but since that had happened, a man should always examine his actions, and according to another version, a man should always consider the deeds he is about to perform.

MISHNA: The cross-beam in question must be wide enough to hold a half of a brick, three spans in length and ^{two} ~~one~~ span wide. It is, however, sufficient, if the cross-beam be only ^{one} ~~one~~ span wide, so as to hold the half of a brick lengthwise. The cross-beam must be wide enough to hold a half of a brick and sound enough to bear it. R. Jehudah saith: It must be wide enough, even if it be not sound enough.

If the cross-beam be of straw or reed, it is (legally) regarded as if it were of metal; if it be crooked it is (legally) regarded as straight; if it be cylindrical, it is (legally) regarded as square.

Anything (measuring) three spans in circumference, is one hand in width.

GEMARA: Why does the Mishna say, that it is sufficient if the cross-beam be only one span wide; it should be one and a half, which is the width of a half brick? Because if the cross-beam be one span wide the other half span which it should measure, can be added by the addition of a little loam on each side.

Said Rabba bar R. Huna: The cross-beam alone must be sound enough to bear a half brick, but the supports upon which it rests need not be sound enough to bear both the cross-beam and the half brick (*i.e.*, if the cross-beam was put up on sticks, the sticks need not be sound enough to support both the cross-beam and a half brick; for the cross-beam being the sign of the entry, it is only essential that it be sound enough to *support* a half brick, although in reality it never serves the purpose, while the sticks are not part of the sign and need not be put to such a test). R. Hisda, however, states, that the cross-beam must be sound enough to bear half a brick, and its supports must be sound enough to bear both the cross-beam and the half brick.

R. Shesheth said: If one put up a cross-beam over an entry, and hung a mat upon it, and this mat was distant from the ground three spans or more, it is considered, that there is neither a cross-beam nor a partition at the entry; no cross-beam, because it is covered up, and no partition, because goats can go through it.

The Rabbis taught: If a cross-beam was put up over an entry, but did not reach the opposite wall, or if two cross-beams were put opposite each other, but did not meet, should the distance between the cross-beam and the wall in the first instance, or between the two cross-beams in the second instance, be three spans or over, another cross-beam must be erected. If it be less than three spans no other cross-beam is necessary. R. Simeon ben Gamaliel, however, said, "If the distance be less than four spans, another cross-beam is not necessary, but if it be four spans or more, another cross-beam must be erected."

The same is the case with two cross-beams that were laid parallel, neither one of which was sound enough to bear a half brick: If both together measured one span in width, which is sufficient to bear a half brick, another cross-beam is not necessary, but if the two together measured less, another cross-beam must be erected. R. Simeon ben Gamaliel, however, said, that if the two cross-beams were sound enough for the length of

three spans to bear a half brick, another cross-beam is not necessary; otherwise, it is necessary.

"If two cross-beams were put up across an entry, one of which was higher than the other, they are regarded as being on a level, provided the higher beam is not over twenty ells above ground and the lower one not less than ten spans above ground." Thus said R. Jose bar R. Jehudah. Said Abayi: "R. Jose bar R. Jehudah holds with his father in one instance only, that the two beams are regarded as being on a level, but he differs with him in the other, namely: that the higher beam must not be over twenty ells above the ground; for R. Jehudah declared in a previous Mishna, that even if it were over twenty ells in height, the entry is valid."

"*R. Jehudah saith: It must be wide enough, even if it be not sound enough.*" R. Jehudah taught Hyya bar Rabh in the presence of Rabh: "It is sufficient, if the cross-beam be wide enough even if it be not sound enough." Said Rabh to him: "Teach him: 'It should be wide *and* strong enough.'" Did not, however, R. Ilai say in the name of Rabh: "It is sufficient, if it was four spans wide, even if it be not sound enough"? Four spans' width makes a difference.

"*If the cross-beam be of straw or reed,*" etc. What does the Mishna mean to teach us by this decree? That we regard certain things in a different light? This has already been taught us previously. In the former teachings, however, one certain kind of cross-beams was dealt with, namely, of wood; hence we might assume, that with straw or reed it might be different. For this reason we are given to understand that straw or reed may be regarded as metal.

"*If it be crooked, it is regarded as straight.*" Is this not self-evident? The Mishna wishes to impart to us the teaching of R. Zera as follows: "If the cross-beam was crooked only outside of the entry across which it was laid, or was crooked above twenty ells from the ground; or again, if the cross-beam was ten spans above the ground and the crooked part of it below the ten spans, the validity of the entry depends upon whether, if the crooked part of the cross-beam were removed, the straight part left would be distant three spans from the wall. If the distance is less than three spans the entry is valid, but if it be over three spans another cross-beam must be erected." Is this teaching also not self-evident? Nay; it is necessary that we be instructed to this effect, lest we presume that the crooked

part on the outside of the entry carry with it the straight part on the inside and thus the entry is invalidated; hence we are given to understand, that such is not the case.

"If it be cylindrical, it is regarded as square." For what purpose was it necessary to add this? This was taught us on account of the last clause in the Mishna, which states, that anything measuring three spans in circumference is one hand in width.

MISHNA: The side-beams in question must be ten spans high, be their breadth and thickness whatever they may. R. Jose saith: "They must be three spans wide."

GEMARA: Shall we assume that the Mishna, which is rendered anonymously, is in accordance with the opinion of R. Eliezer, who holds that two side-beams are necessary? Nay; the side-beams in question refer to side-beams necessary for all entries. If this be the case, why did not the previous Mishna state cross-beams instead of "the cross-beam"? The above Mishna means to state, that the side-beams concerning which there is a difference of opinion between the sages and R. Eliezer should be ten spans high, be their breadth and thickness whatever it may. How much is meant by "whatever it may"? R. Hyya taught: "Even the breadth and thickness of a thread of a Saraball."*

A Boraitha states: "If one made a side-beam in one half of an entry, he has only a half of an entry." Is this not self-evident? We might presume that because one must not use the whole entry, hence the half must also not be used, and we are taught, that the half may be used.

Rabha said: "If one made a side-beam for an entry and it was three spans distant from the ground or three spans away from the wall, it does not count; and even according to R. Simeon ben Gamaliel who holds an object to be 'lavud' (attached) although four spans distant, the side-beam is of no use, because R. Simeon ben Gamaliel's opinion applies to an object which is four spans distant at the top; but at the bottom, where goats can pass through, a trifle less than three spans is the maximum distance."

"R. Jose saith: 'They must be three spans wide.'" Said R. Jehudah the son of R. Samuel bar Shila in the name of Rabh: "The Halakha does not prevail according to R. Jose either where brine is concerned † or where a side-beam is in question."

* A Saraball was an article of apparel similar to the modern Turkish trousers.

† See Tract Sabbath, Chapter XIV., Mishna 2.

Said the schoolmen to him: "Dost thou confidently assert this?" and R. Jehudah answered: "Nay." Said Rabha: "By the Lord! He said this of a certainty, and we accepted it from him." Why then did he say "nay"? Because, we have learned elsewhere, that wherever R. Jose made an assertion, he always had good reason for it (and R. Jehudah did not wish to dispute with R. Jose).

Said Rabha bar R. Hana to Abayi: "According to whom, however, does the Halakha prevail concerning the side-beams?" He answered: "Go and observe the custom of the people" (which is as much as saying, that the breadth and thickness of a side-beam can be whatever it may).

It was taught: A side-beam, that was standing of itself, *i.e.*, that had not been especially erected, is, according to Abayi, valid, and, according to Rabha, not valid. If the side-beam was not depended upon to serve the purpose on the preceding day (before Sabbath), all agree, that it is not valid; but if it *was* depended upon for that purpose, Abayi declares, that it may be utilized, because it was depended upon on the preceding day, while Rabha holds that not having been erected for that purpose it must not be used. As for a partition, standing of itself, there is no difference of opinion, and all agree that even if it was not intended to serve as a partition, it may be used, and the reason they differ in the case of a side-beam is because each holds to his own theory: Abayi regards a side-beam as a partition, and a partition may be utilized under any circumstances, while Rabha regards a side-beam merely as a sign, and as such it must be especially prepared for the purpose before it may be used.

An objection was made: "Come and hear: If stones protruded from the fence around an entry and they were less than three spans apart, another side-beam for the entry is not necessary; but if they were three spans apart, another side-beam must be erected." Here the case is also, if the stones were so arranged purposely to commence with. If such be the case, is this not self-evident? We might assume that the stones were arranged in that manner with the intention of adding more to them, hence we are given to understand that this may be done.

Another objection was made: Come and hear: Rabh was sitting in a certain entry and R. Huna was sitting before him. Said Rabh to his servant: "Go and bring me a pitcher of water." Before his servant returned, the side-beam at the entry fell, and Rabh motioned to his servant to remain where he was.

Said R. Huna to him: "Did not Master hold, that the tree standing in the entry may be regarded as a side-beam?" and Rabh answered: "That scholar is as a man who never understood a Halakha. Did we depend upon that tree to serve as a side-beam yesterday?" Now, we see, that according to Rabh, had the tree been depended upon on the preceding day to serve as a side-beam, it would have been valid. Shall we assume, that Abayi and Rabha differ concerning a side-beam standing of itself even if it was not depended upon on the preceding day, but if depended upon, both agree that it may be used. Nay; we cannot say this; because there was a pillar in the house of Bar Habo concerning which Abayi and Rabha differed all of their lives. (This is one of the six Halakhas that prevail according to Abayi, for generally Rabha is given precedence, as will be seen in the maxims of the Talmud.)

MISHNA: Side-beams may be made out of anything, even of such as are possessed of life. The latter, however, is prohibited by R. Meir. A living animal tied to the mouth of a grave in order to close it up communicates uncleanness (even after it has been removed). R. Meir, however, declares the animal clean. A letter of divorce for a woman may be written on a living animal, but R. Jose, the Galilean, pronounces the letter of divorce null and void (not legal).*

If a caravan encamp in a valley and a fence be made around the camp out of the cattle's gear, it is permitted to carry things inside of the fence (on Sabbath), providing the fence be ten spans high and the open spaces therein do not exceed in extent the fence proper. Every open space which is ten spans wide is permitted (to be used as an entry), for it is considered as a door, but such open spaces as are more than ten spans wide must not be used.

GEMARA: It was taught: If the open spaces of the fence equalled in extent the fence proper, R. Papa said: "The fence is valid." R. Huna bar R. Jehoshua however said, "It is not valid." R. Papa held it to be valid because so was Moses taught by the Merciful One: "The *larger* part (of a partition) must not be broken." R. Huna bar R. Jehoshua held it *not* to be valid because the Merciful One taught Moses thus: "The *larger* part must be *fenced* in."

* The Gemara pertaining to this Mishna will be found in Tract Gittin, as it does not belong to or treat of Erubin.

An objection was made: Our Mishna states that "the open spaces must not exceed in extent the fence proper"; but if the space was equal in extent to the fence it should be valid. This question remains.

Another objection was made. Come and hear: "If a caravan encamped in a valley and a fence was made with camels, with saddles, with the baggage, or with sticks, or with bundles of herbs, things may be carried inside the fence, providing the space between each camel does not exceed the size of another camel or the space between each saddle does not exceed the size of another saddle, etc." (Whence we see that if the space equals in extent the actual fence, the fence is not valid.) Here the case is, that the space between two camels should be large enough for a camel to go in and out, but not the exact size of a camel.

Another objection was made: "Walls of which the greater part consists of windows and doors are valid, providing the wall proper is larger in extent than the space." If, however, the space and walls are equal, the walls are not valid; this would be contradictory to R. Papa's opinion. It is contradictory, but the Halakha remains according to R. Papa. How can it be, that there should be a contradiction and still the Halakha should prevail according to R. Papa? It is possible, because our Mishna states, that the open space should not exceed the fence proper, hence if space and fence are *equal*, the fence is valid. Consequently the Halakha prevails according to R. Papa.

MISHNA: A fence may also be constructed with three ropes, one above the other; providing the space between each rope be less than three spans, and the measure (width or thickness) of the three ropes together exceed one span, so that the entire (fence) attain (the height of) ten spans.

A fence may also be made of cane-laths, providing the space between the canes be less than three spans. All these regulations apply to a caravan only. So saith R. Jehudah, but the sages maintain, that the caravan (in the preceding Mishna) is particularly spoken of in order to adduce therefrom that which is generally done. Any partition which is not constructed on the principle of warp and shoot is not a (lawful) partition. Such is the dictum of R. Jose bar Jehudah; but the sages hold, that constructing it according to either one of the two principles is sufficient.

GEMARA: Said R. Hamnuna in the name of Rabh: "It

was said, that the solid part of the partition must exceed the space of the partition when constructed on the principle of the shoot in order to make it valid; the question, however, arises by me concerning a partition constructed on the principle of the warp. What is the law?" Said Abayi to him: "Come and hear: Our Mishna states, that the width or thickness of the three ropes together must exceed one span in order to make the entire fence ten spans. If it were the same with a fence constructed on the principle of the warp as with one constructed on the order of the shoot, why does the Mishna specify one which, including all the ropes, will bring the total up to ten spans." How can such an assertion be made? Where should the space of four spans be placed? Should it be placed at the bottom, *i.e.*, between the ground and the first rope, then the space will be large enough to permit of goats passing through and the fence will be of no use. Should it be placed at the top, *i.e.*, between the second and third rope, then the space between the two ropes, together with the space above the third rope, will nullify the third rope entirely, because the third rope will have no connection whatever with the two lower. Should it be placed in the center, *i.e.*, between the first and second rope, then there will be only a quasi-solid partition at the bottom and the same at the top, but between the two there will be virtually an empty space of four spans; should it be assumed that such a partition can also be accounted lawful where the solid parts are disconnected, and an empty space exists between them? (This question is not decided.)

"*Cane-laths.*" How can R. Jehudah say, that all these regulations apply to a caravan only, and not to individuals? Have we not learned elsewhere, that R. Jehudah said: "It is not allowed for an individual to construct a partition for the Sabbath around a piece of ground, wherein more than two saahs of grain could be planted." Hence if the piece of ground is only so large that two saahs of grain can be planted therein, he may make the partition. (How then can he say in the Mishna, that these regulations apply only to a caravan?) This can be explained in the same manner as R. Na'hman, and according to others R. Bibhi bar Abayi, explained the last clause of our Mishna, viz.: "Any partition, which is not constructed on the principle of warp and shoot, is not a (lawful) partition. Such is the dictum of R. Jose bar Jehudah." The question was made, whether such could be the dictum of R. Jose bar Jehudah.

Did we not learn in a Boraitha, that "no difference is made as far as a fence constructed with ropes is concerned between a caravan and an individual except that the space enclosed by the fence must not for one man or even for two exceed that in which two saahs of grain could be planted. For three men, however, who are regarded as a caravan, a space in which six saahs of grain can be planted is allowed. So said R. Jose bar Jehudah; but the sages maintain, that there is absolutely no difference made between a caravan and an individual, and that they may enclose all the space they require, providing they do not enclose superfluous ground to the extent that two saahs of grain could be planted in such an empty space." How can R. Jose bar Jehudah state that a fence must be constructed according to the principles of warp and shoot; does he not allow a fence made with ropes, which is only on the principle of the warp? And R. Na'hman, according to others R. Bibhi bar Abayi, answered and said, that R. Jose bar Jehudah requires a partition to be constructed on both principles only in order to allow even an individual all the space necessary. Now, the same can be said in answer to the question made concerning the contradictory statements of R. Jehudah.

R. Na'hman related in the name of our master Samuel: "An individual or even two men are allowed to enclose as much space as would permit of the planting of two saahs of grain therein, but three men, who are regarded as a caravan, may have all the space necessary." How is this? The first part of this teaching is in accordance with R. Jose bar R. Jehudah, and the last according to the sages? Yea; Abbahu is also of the same opinion.

R. Gidel in the name of Rabh said: "There are instances when three men must not occupy space so large that five saahs of grain can be planted therein, and again, there are instances when they may occupy space in which even seven saahs of grain may be planted." (The instances were not quoted, however.) "Is it possible that Rabh should have said this?" queried the sages, and R. Gidel answered: "I swear by the Law of Moses and by the prophets, and by the Hagiographa, that Rabh said this." Said R. Ashi: "What difficulty is there in this? Let us suppose, that the three men needed a space of six saahs' capacity, and enclosed one so large, that seven saahs could be accommodated. (Then only a space is empty where one saah of grain could be planted.) Hence they may use the entire

space. But supposing, that they needed only a space large enough to accommodate but five saahs of grain, and enclosed one large enough for seven, (then a space large enough for the planting of two saahs is vacant) and they must not use even the space large enough for five saahs." Did not the same Boraitha teach us, however, that a space large enough for the planting of two saahs must not be vacant, and thereby meant to state, that each man should be allowed a space large enough for two saahs, and then if a space for two saahs is vacant the entire space must not be used; hence, when there are three men, they should not be allowed the use of a space large enough for the planting of eight saahs, but one accommodating only seven should be allowed them? Nay; the Boraitha meant to state, that the space allowed to the men should be only as much as they need for the accommodation of all their belongings.

"But the sages hold that constructing it according to either one of the two principles is sufficient." Is this not a repetition of what the first Tana stated in opposition to R. Jose's bar R. Jehudah dictum? There is a difference of opinion concerning an individual between the first and second sages as regards an inhabited place (and not the desert). According to the first sages who maintain that the regulations apply not only to a caravan but to all individuals in general, this refers to individuals who are on the road, but when in inhabited places the regulations do not apply to them, while the second sages who oppose R. Jose bar Jehudah hold, that it makes absolutely no difference, be it caravan or an individual, in an inhabited place or in the desert.

MISHNA: Four privileges have been granted to warriors in camp: They may bring wood from any place (without respecting the rights of ownership); they need not wash their hands before meals; they may eat of Damai (grain of which it is not certain that the legal dues, tithes, etc., have been set aside); and they are exempt from the obligation of making an Erub.

GEMARA: The rabbis taught: If an ordinary war* is in progress, it is permitted for the warriors to appropriate dry wood without respecting the rights of ownership. R. Jehudah ben Thima said: "They may also encamp wherever they choose,

* By an ordinary war is meant a war carried on by the people without the direct commandment of God as distinct from the wars carried on by Joshua by divine commandment.

and wherever one is killed there may he also be buried, although the ground does not belong to him."

"*They are permitted to appropriate dry wood.*" This has also been ordained even by Joshua! Joshua ordained, that wood may be cut and appropriated by the warriors, but later even cut and dry wood was allowed to be taken.

"*Where one is killed, there may he also be buried.*" Is this not self-evident? The killed were strangers and had no one to secure a burying ground for them. The law also states, that whenever a man dies without leaving sufficient means for the acquirement of a place of burial, he may be interred in the place where he dies. This case refers to warriors who even left sufficient means to secure a burying ground.

"*They need not wash their hands before meals.*" Said Abayi: "This refers only to washing the hands *before* meals, but *after* meals it is even then necessary, because R. Hyya bar Ashi said: 'Why did the sages ordain the washing of hands after meals? Because among the salt used at the table there may be salt of Sodom, and when a hand which had touched salt of Sodom comes in contact with the eyes it blinds them.' There is only one grain of salt of Sodom in a whole kur of ordinary salt," said Abayi.

Said R. A'ha the son of Rabba to R. Ashi: "How is the law, concerning one who had measured salt?" and he answered: "So much the more must he wash his hands."

"*They may eat of Damai.*" As we have learned in another Mishna: "Beth Hillel said, that a poor man and a warrior may partake of Damai."

"*They are exempt from the obligation of making an Erub.*" The disciples of R. Janai said: They are exempt from the obligation of making an Erub as far as courts and entries are concerned, but not where the limit of the distance of two thousand ells (techoom) is concerned, because R. Hyya taught: "One who is guilty of transgressing the law of techoom should be punished with stripes as for any other biblical negative commandment." R. Jonathan opposed this: "Can a man be punished with stripes for a negative commandment which commences with the word *Al*?"* This was again opposed by R.

* *Al* and *Lo* both mean "not" in Hebrew, and R. Jonathan means to say, that only such negative commandments as commence with "*Lo*" involve, if transgressed, the punishment of stripes, but not such as commence with "*Al*."

A'ha bar Jacob: "According to thy theory then the man who transgresses the commandment in [Leviticus xix. 31], 'Turn not unto them that have familiar spirits and unto wizards' (which also commences with 'Al'), should also not be punished with stripes?" R. Jonathan puts his question in the following sense: The violation of a commandment which involves the death penalty when committed intentionally cannot be punished with stripes at all, and the violation of the Sabbath is certainly a capital offence (how then can R. Hyya hold that it can be punished with stripes?). Answered R. Ashi: It is written [Exod. xvi. 29], "Let no man go out of his place on the seventh day," but it does not state, that a man should not carry things on that day. (Consequently the transgressing of the law of techoom is not a capital offence, and is on a par with all other negative commandments.)

CHAPTER II.

REGULATIONS CONCERNING THE USE OF A WELL AND A GARDEN ON THE SABBATH.

MISHNA: Enclosures (partitions) must be made around wells. They must be made of four boards, placed at an angle (of forty-five degrees) at the corners of the well, so that the four boards appear like eight (see illustration). Such is the dictum of R. Jehudah; but R. Meir saith: Eight boards must be used which will appear as twelve, namely, four boards placed at an angle at the corners which appear as eight, and four boards



placed between the corner boards. The height of the boards must be ten spans, the width six spans, and the thickness whatever it may be. The space between the two corner boards on the same side must not be wider than to permit of the passing through

of two teams of cattle, each team of three animals abreast. Such is the decree of R. Meir. R. Jehudah, however, maintains, that each team may be of four animals abreast, meaning of cattle yoked together in a team, but not walking unyoked, so that one enters as the other passes out.

It is permitted to bring the enclosure quite close to the well, providing, that the head and greater part of the body of the animal be within the enclosure while it drinks. It may also be placed at some distance from the well, providing that more boards be used.

R. Jehudah said: The maximum distance from the well at which the enclosure may be placed is a space large enough for the planting of two saah of grain, but the sages said to him: "This size (sufficient for the planting of two saah of grain) is only applicable to a garden or a wood-shed, but as regards a cattle-pen, a fold, a bleaching-ground (behind the house), or a courtyard (in front of the house), even though it be large enough to permit of the planting of five kur of grain therein, yea, or even of ten kur, it is lawful (to carry things therein on

the Sabbath)." It is also permitted to place the enclosure at any convenient distance from the well, provided more boards be used.

GEMARA: Shall we assume, that our Mishna is not according to Hananiah, as we have learned in a Boraitha, viz.: "Boards may be put up at a well and ropes for a fence of a caravan, but Hananiah said, that *ropes* for a well are permitted but not boards"? Nay; we may say, that our Mishna agrees with Hananiah; but a well containing rain-water is one thing and one containing spring-water is another. Our Mishna treats of spring-water and Hananiah refers to rain-water. To make an enclosure around a well of rain-water is permitted only during the time of the pilgrimage to Jerusalem.

"*R. Jehudah said: The maximum distance,*" etc. We have learned in a Mishna (Damai i. 1): R. Jehudah also said: "All bad (inferior) dates are not suspected of being Damai, with the exception of the fruit known as double-fruit (*δι-ωπορα*)." Said Ula: The tree bearing this fruit bears twice a year (and the ignorant people might object to acquit the legal dues thereof).

R. Jeremiah ben Elazar said: Adam the first (man) had a dual face, as it is written [Psalms cxxxix. 5]: "Behind and before hast thou hedged me in, and thou placest upon me thy hand."

It is written [Genesis ii. 22]: "And the Lord God formed the rib which he had taken from the man into a woman." Rabh and Samuel both comment upon this. One declares, that the Lord simply divided Adam, who had a dual head, while the other holds, that Adam had a tail and the Lord made the woman out of that tail. So according to the one the passage "Behind and before," etc., is correct, but, according to the other, how should it be explained? It may be explained as R. Ami said: "By 'behind' is meant that last of (behind) all was man created, and by 'before,' that before (first of) all others did he receive his punishment." The first part of this explanation is correct because man was created last of all on the eve of Sabbath, but the second part is not true; for was not the serpent cursed before Eve, and Eve before Adam? The punishment refers to the flood, concerning which it is written [Genesis vii. 23]: "And it swept off every living substance which was upon the face of the ground, both man, and cattle, etc.," and man is mentioned before all else. Further, it is written, that the Lord brought Eve to Adam, *i.e.*, that the Lord was sponsor

to them. Whence we learn, that a man, be he ever so great, should not refuse to be sponsor to a lesser man.

R. Meir said: Adam the First was very pious, for when he saw, that on his account the human race was made mortal, he fasted one hundred and thirty years, separated himself from woman, and wore leaves of a fig-tree on his body for the same length of time.

R. Jeremiah ben Elazar said: If a man is to be praised to his face only a small part of the praise due him should be given him, but his entire share may be bestowed upon him in his absence, as it is written [Genesis vii. 1]: "For thee I have seen righteous before me in this generation," and [ibid. vi. 9]: "Noah was a just, perfect man in his generations." Thus we see that to his face the Lord merely called Noah righteous, whereas in his absence the verse called him "a just, perfect man."

The same said again: A house, where the words of the Law are also heard at night, shall never more be destroyed, as it is written [Job xxxv. 10]: "But man saith not, 'Where is God my maker, who bestoweth joyful songs even in the night,'" and the verse is explained thus: If man would have sung joyful songs even in the night, he would not have been compelled to ask: "Where is God my maker?"

The same said again: Since the destruction of the temple it is sufficient for man to use only two letters in place of the four forming the name of the Lord (*i.e.*, Yod and Heh instead of Yod, Heh, Vav, and Heh), as it is written [Psalms cl. 6]: "Let everything that hath breath praise Jah (the Lord). Hallelujah."

He said again: When Babylon was cursed, it was a curse to the neighbors also; but when Samaria was cursed, the neighbors rejoiced. Speaking of Babylon, it is written [Isaiah xiv. 23]: "I will also make it a possession for the hedgehog and pools of water," and speaking of Samaria, it is written [Micah i. 6]: "Therefore will I change Samaria into stone-heaps on the field, into vineyard plantations."

He said again: Come and see how the custom of the Holy One, blessed be He, differs from that of mortal man: When a man is about to be executed, a gag is placed in his mouth in order that he may not curse the king; but if a man transgresses against the Lord, the man is silenced, as it is written [Psalms lxxv. 2]: "For thee praise is waiting, O God, in Zion." Not only is the man who transgresses against the Lord silent (waiting) but he also praises him, and the punishment given man for

the transgression is regarded by him as a sacrifice unto the Lord, as it is written, "and unto thee shall vows be paid" [ibid.].

This is similar to the saying of R. Jehoshua ben Levi as follows: It is written [Psalms lxxxiv. 7]: "Passing through the valley of weeping, they will change it into a spring; also the early rain covereth it with blessings." "Passing" refers to the man who has trespassed against the will of the Holy One, blessed be He, "the valley" refers to hell which is made deeper, "weeping" signifies that they are weeping and shedding tears equal to the spring of Shitin, and "the early rain covereth it with blessings" denotes that the trespassers themselves bless the Lord, saying: "Creator of the Universe, Thou hast judged rightly, finding the righteous just and the wicked full of iniquity, (and blessed be Thou) that Thou hast ordained hell for the wicked and paradise for the righteous."

Is this statement not contradictory to the saying of Resh Lakish to the effect that the fires of hell cannot gain access to the bodies of the sinners in Israel, which is derived from the *a fortiori* conclusion that inasmuch as the gold which was only of the thickness of one golden dinar covering the ark of the covenant, was not touched by the perpetual light, although but one commandment was being fulfilled, so much more will the sinner in Israel who has fulfilled as many commandments as a pomegranate has seeds escape the fires of hell (as it is written [Solomon's Song vi. 7]: "Like the half of the pomegranate is the upper part of thy cheek," etc. And Resh Lakish said: Do not read "the upper part of thy cheek," but read "thy vain, wicked men" *). Nay; even Resh Lakish admits that the sinners descend into hell; but our father Abraham, seeing that they are circumcised, rescues them.

R. Jeremiah ben Elazar said again: "Hell has three gates: One in the desert, one in the sea, and one in Jerusalem." "In the desert," as it is written [Numbers xvi. 33]: "And they went down, they, and all they that appertained to them, alive into the pit (Sheol-Gehenna)." "In the sea," as it is written [Jonah ii. 3]: "Out of the depth of the grave have I cried, and thou hast heard my voice." "And one in Jerusalem," as it is written [Isaiah xxxi. 9]: "Who hath a fire in Zion, and a furnace in Jerusalem." And the disciples of R. Ishmael taught, that by a

* "The upper part of thy cheek" is expressed in Hebrew by "Rakothch," and Resh Lakish reads instead "Rikothech," which signifies "thy vain or wicked men."

fire in Zion is meant Gehenna, and by the furnace in Jerusalem is meant the gate of Gehenna.

R. Jehoshua ben Levi said, that hell has seven names, viz. : Sheol, Abaddon, Baar Shachath, Bor Sheon, Tit Hayavon, Tzalmoveth, and Eretz Hathachthith.*

Where is the gate of Paradise? Said Resh Lakish: "If the gate of Paradise is in the land of Israel it is in the city of Beth Sheon. If it is in Araby it is in the city of Beth Gerem, and if it is between the rivers it is in Damaskanun."

In Babylon, Abayi would praise the fruit growing on the other side of the Euphrates and Rabha would praise the fruit of the city of Harphania (so it may be that the gate of Paradise is situated in one of these two places).

"*Cattle yoked together in a team, but not walking unyoked.*" Why does the Mishna say "yoked together but not unyoked"? It is self-evident, that if they must be yoked they cannot be unyoked? We might assume, that if it said only "yoked together" we might think that apparently yoked would be sufficient, so it is repeated in order to make it more emphatic.

"*So that one enters as the other passes out.*" That means, that one *team* can enter while another passes out. This was taught in a Boraitha.

The Rabbis taught: How much (in size) must the larger part of a cow be reckoned? Two ells. What is the breadth of a cow? One and two-thirds of an ell. Thus six cows abreast will measure about ten ells. So said R. Meir, but R. Jehudah said: "About thirteen or fourteen ells." Why does R. Meir say "about ten ells"? It is exactly ten ells? Because he must teach later "about thirteen ells," so he also approximates it in this case, and says "about ten ells." Now, why does R. Jehudah say "about thirteen ells"? According to his opinion it should be more? Because he wishes to say "about fourteen" he generalizes it and says "about thirteen or fourteen." How can he say about fourteen? It is less than fourteen? Said R. Papa: "He means to say more than thirteen and less than fourteen" (*i.e.*, the measure of two teams of four cows each abreast is more than thirteen and less than fourteen ells).

R. Papa said: For a well that measures not more than eight

* These names can be found in the following passages: Jonah ii. 3; Psalms lxxxviii. 12; *ibid.* xvi. 10; *ibid.* xl. 2; *ibid.* cvii. 10; the last name is traditional and not mentioned in the Scriptures.

ells in circumference, all agree, that no centre-boards are necessary. For a well of twelve ells in circumference, all agree that they are necessary. Where they differ is concerning a well that is between eight and twelve ells in circumference. According to R. Meir centre-boards are necessary, and according to R. Jehudah they are not. What would R. Papa inform us? We have learned this in our Mishna; for R. Jehudah says two teams of four animals each and R. Meir two teams of three each, so the difference is the size of two animals but not the size of one. R. Papa did not know of the Boraitha stating the size of a cow, so he came to teach us the measure.

Abayi asked Rabba: "What is the law if a man make the enclosures wider; must, according to R. Meir, centre-boards be put up nevertheless or not?" and Rabba answered: "This was taught us in the Mishna, 'providing that more boards be used.' Can we not assume that centre-boards are necessary?" Rejoined Abayi: "Nay! it may mean that the corner-boards should be increased in length." It seems to us that the opinion of the latter is the intention of the Mishna. This decides the argument.

Abayi asked Rabba again: "What is the law according to R. Jehudah if the space between the corner-boards on the same side exceeded thirteen and one-third ells? What should a man do then? Should he increase the length of the corner-boards or put up centre-boards?" Answered Rabba: This was taught us in a Boraitha as follows: What is meant by "they are near each other"? If they are only apart a space as large as the greater part of a cow. What would be called "they are far away from each other"? If the space between them is so large that a kur or even two kurs of grain can be planted therein. R. Jehudah, however, said, that only a space large enough to permit of the planting of two saahs of grain is permitted, but no more. The sages said to R. Jehudah: "Dost thou not admit that a cattle-pen or a fold, a bleaching-ground or a courtyard, even though they be large enough to accommodate five or even ten kurs of grain, are permitted?" R. Jehudah answered: "Here the case is different; for here we have partitions, while in the case of a well we have only enclosures." Now, if the length of the corner-boards should be increased, then R. Jehudah would say that the boards around a well also constitute a partition. Rejoined Abayi: Around a cattle-pen or a fold, a bleaching-ground or a courtyard, according to R. Jehudah, the law of a

partition is applied and that must not contain a space larger than ten ells, and it matters not whether that space have a capacity large enough to permit of planting one or five kur of grain; but the space between the corner-boards was fixed at thirteen and one-third ells because the law of enclosures is applied, hence it should not have a capacity larger than would permit of the planting of two saahs of grain, even if the length of the boards be increased.

Abayi asked Rabba again: "Can a sandheap four ells wide and sloping up to a height of ten spans take the place of the corner-boards at a well?" Answered Rabba: "This is taught in a Tosephta: 'R. Simeon ben Elazar said: If there was a square rock standing at the corner of a well, which if divided would form an angle, each side of which would be one ell, it may take the place of corner-boards, otherwise it cannot.' " R. Ishmael the son of R. Johanan ben Berokah said: "Even if the rock was round and when made square and divided would form an angle each side of which would be one ell, it may also take the place of the corner-boards." On what point do they differ? According to the former Tana there is only one supposition allowed regarding the rock, whereas according to the latter, even two suppositions concerning the rock are permitted.

He asked him again: "May a bush take the place of corner-boards?" and Rabba answered: "We have learned this in a Boraitha: If there was a fence, a tree, or a number of cane-laths on the spot, they may serve as corner-boards." What is meant by cane-laths? In all probability a bush. Nay; we might assume, that they were really cane-laths and less than three spans apart? Then, by application of the law of "lavud" it would be a fence, and the Boraitha mentions a fence in the first place; why should the repetition be made? If it is a bush, it is the same as a tree; why the repetition in this instance? It might be said, then, that two kinds of a tree are mentioned; why should not two kinds of fences be mentioned?

Abayi asked him again: May things be carried from a courtyard opening into the enclosure around a well and *vice versa*? Rabba answered: "They may." "How is it if there were two adjoining courtyards opening into the enclosure?" "Then one must not carry from the courtyards into the enclosure." Said R. Huna: "If there were two courtyards, even an Erub will not make it lawful to carry things from the courtyards into the enclosure as a precaution, lest it be said, that the law of Erub

applies also to enclosures." Rabha, however, said: "If an Erub was made, it is lawful." Said Abayi: "I know of a Boraitha, which supporteth thy opinion, viz.: If a courtyard opened into an enclosure around a well, things may be carried to and from the courtyard and the enclosure, but if two courtyards opened into the enclosure, this is not allowed, provided an Erub was not made. If an Erub *was* made, it is lawful."

Abayi asked Rabba again: "What is the law concerning the enclosures of a well which had gone dry on Sabbath?" and he answered: "Were not the enclosures made merely for the sake of the water? If the water gave out, the enclosures are void." Now asked Rabin of Abayi: "What is the law if the well went dry on the Sabbath and was filled again on the same day?" Answered Abayi: Concerning the law of a well that had gone dry I asked Master and he told me that the enclosures were void; hence if the well filled up again on the same day the enclosure must be regarded as one constructed on the Sabbath and it was decided that [in Tract Sabbath, page 200] a partition constructed on the Sabbath is valid.

R. Elazar said: "If one throw something (from public ground) within the enclosures around a well, he is culpable." Is this not self-evident? If the enclosures were not regarded as a partition, how would it be allowed to draw water from the well on Sabbath? R. Elazar means to tell us, that if such enclosures were erected in public ground without having a well, it also makes one culpable to throw a thing within the enclosures. Is *this* not self-evident? If such enclosures were not regarded as a partition elsewhere, how could they be thus considered when erected around a well? He lets us know, that even if the space surrounded by the enclosures is used as a public thoroughfare, it is nevertheless regarded as private ground. Then he means to tell us, that the public who pass through the enclosures do not nullify the validity of the enclosures? This we have also been taught [in Tract Sabbath, page 10]. The ordinance there is derived from his dictum above.

"*It is permitted to place the enclosures quite close to the well.*" We have learned in a Mishna [Sabbath, xi.]: A man must not, standing in private ground, drink in public ground, nor, standing in public ground, drink in private ground, unless he place his head and the greater part of his body within the place in which he drinks. Such is likewise the law regarding a vine-press. Shall we assume, that it is sufficient for a *man* to have his head and

the greater part of his body in the place in which he drinks, but does this also apply to cattle or not? If the man hold the vessel from which the cattle drink and holds also the cattle (so that they cannot turn around), there is no question but that it is sufficient if they have their heads and the larger part of their bodies within the enclosures; but if the man hold the vessel only, and not the cattle, what is the law? Replied one of the schoolmen to the questioner: We have learned this in our Mishna, viz.: "Providing the head and the greater part of the body of the animal be within the enclosure while it drinks." Must we not assume, that in this case the man holds only the vessel and not the animal? Nay; he holds both the vessel and the animal and the law seems to apply to the latter instances; for had he not held the animal also, how could this be allowed? Did we not learn in a Boraitha: A man must not fill a vessel with water to give to his cattle, but he may fill up the vessel and let his cattle drink of their own accord. (This was taught concerning the enclosures around the well.) Now, then, if we should say, that this Boraitha applies to a man who holds both the vessel *and* the cattle, why should he not water the cattle out of the vessel? We must therefore assume, that he did not hold the cattle, and consequently it is obvious that one must hold both the vessel and the cattle.

Have we not learned, that Abayi explains the mentioned Boraitha as follows: The case was, where a crib, ten spans high and four spans wide (forming in itself a private ground), and opening into the enclosures surrounding the well, stood in public ground and the animal stood in private ground? The Boraitha ordains, that the man should not fill a vessel with water and carry it to the animal, but pour it into the crib, *i.e.*, he should not lift the vessel with water over the crib and carry it through public ground to the animal, lest he notice that the crib is broken and he will carry the crib into the place where the animal stands to mend it, thus carrying a thing from public into private ground?

Even if he did so, can the man be held culpable? Did not R. Saphra say, in the name of R. Ami, quoting R. Johanan: "If one moved a certain thing from one corner into another in private ground and then carried it into public ground, he is not culpable, because his original intention was not to carry it into public ground?" Abayi means to state, that the man might mend the crib where it was standing and then carry it into private ground.

Come and hear (another objection): "A camel, whose head and greater part of the body was within the enclosures around a well, may be crammed." Now, in such a case, the man certainly holds the animal and the vessel, and still it is necessary that the head and larger part of the body of the animal be within the enclosures? Said R. A'ha bar R. Huna in the name of R. Shesheth: "With a camel it is different; the neck of a camel being very long, if the camel turned its head around it would be in public ground."

We have learned also in a Boraitha, that R. Eliezer also prohibits this to be done with a camel, because its neck is very long.

R. Itz'hak bar Ada said: "The enclosures around wells are not permitted to be used by any but the pilgrims while going to Jerusalem for the festivals." Did we not learn in a Boraitha that the enclosures are allowed only for cattle? By cattle is meant the cattle of the pilgrims, but what should a man who wishes to drink do? He should hold on to the walls of the well and drink there. [This is not so! Did not R. Itz'hak in the name of R. Jehudah quoting Samuel say, that the enclosures are permitted to be made only around wells containing spring-water but not rain-water? If the wells were only allowed for cattle, why should this distinction be made? The water must be fit for human use also (because the enclosures are erected for the sake of the water, the latter should be good water).] If the walls of the well were very wide and a man could not climb over them, he may draw water from the well and drink it.

R. Jeremiah bar Abba said in the name of Rabh: The laws of a road that had huts built on it at seventy ells apart and of enclosures around wells do not hold good in Babylon or anywhere outside of Palestine. The first law does not apply to Babylon on account of the frequent floods and to other lands on account of thieves who would steal the huts, and the second law does not apply to Babylon because of the abundance of water and to other lands because there are no colleges of learning.

Said R. Hisda to Mari the son of R. Huna the son of Jeremiah bar Abba: "I have heard, that ye, men of Barnash, go to the synagogue of Daniel on the Sabbath, a distance of three miles. Upon what grounds do ye do this? Do ye depend upon the law of huts? Was it not said by thy grandrather in the name of Rabh, that this law does not apply to Babylon?" R. Hisda was shown by Mari demolished buildings scattered over

the entire road, at about seventy ells apart, which at one time formed part of the city itself.

Said R. Hisda: Mari bar Mar related: It is written [Jeremiah xxiv. 1]: "The Lord caused me to see, and, behold, there were two baskets of figs placed before the temple of the Lord," etc., and [ibid. 2]: "The one basket had very good figs, like the figs that are first ripe; and the other basket had very bad figs, which could not be eaten, from being so bad." The good figs represent the strictly righteous and the bad figs the grossly wicked, but if you mean to say, that for the grossly wicked there is no more hope, therefore it is written [Solomon's Song vii. 14]: "The mandrakes * give forth their smell."

Rabha preached: "By the passage 'The mandrakes give forth their smell' is meant the young men of Israel who have not yet tasted of the fruit of sin, and by 'at our doors are all manners of precious fruits' is meant the virgins of Israel who are modest before their marriage, and by the passage 'new and also old, O my friend! these have I laid up for thee' is meant what the congregation of Israel said to the Holy One, blessed be He, namely: 'Creator of the Universe! Even more than thou hast ordained for us, have we ordained for ourselves and have faithfully observed.'"

Said R. Hisda to one of the scholars who read legendary matter before him: "Hast thou not heard what is meant by 'new and also old' (in the passage quoted)?" He answered: "'The old' refers to biblical ordinances and the 'new' to rabbinical."

Rabha preached: "It is written [Ecclesiastes xii. 12]: 'But more than all these, my son, take warning for thyself: the making of many books would have no end; and much preaching is a weariness of the flesh.' This means: 'My son, be careful in the observance of the rabbinical commandments (even more than in the biblical); for while the biblical commandments are for the most part positive and negative (*i.e.*, not always involving the death-penalty if violated), the rabbinical commandments, if infringed, would involve capital punishment. Lest one might say, that if such be the case, why were not the rabbinical commandments written down, the answer is provided, 'The making of many books would have no end.' The end of the passage

* The Hebrew term used for baskets and for mandrakes in both passages is "Dudaim," hence the inference by analogy.

'Much preaching is a weariness of the flesh,' signifies, that one who devotes much thought and reflection to the rabbinical commandments, acquires a taste as if he had eaten an excess of meat."

The Rabbis taught: It happened that when R. Aqiba was in prison R. Jehoshua of Garsi served him every day. Water was given R. Aqiba in a measure. One day the warden of the prison said to R. Jehoshua: "To-day thy measure of water is too large. Perhaps it is thy intention to undermine the prison." So he poured out half the water and returned the remainder. When R. Jehoshua came to R. Aqiba the latter said to him: "Dost thou not know, that I am an old man and that my life is dependent upon thee?" R. Jehoshua then related what had happened. Said R. Aqiba: "Give me the water and I will wash my hands prior to eating," and he answered: "There is hardly enough water to drink, and thou wouldst use it to wash thy hands?" Rejoined R. Aqiba: "What can I do? I must follow the rabbinical commandment, which if violated would involve capital punishment. It were better for me that I die of hunger, than to act contrary to the opinion of my colleagues." And it was said that R. Aqiba would not taste anything until water was brought to him to wash his hands. When the sages heard of this, they said: If he was so careful in his old age how was he in his youth, and if he was so particular in prison how was he when at liberty!

R. Jehudah said in the name of Samuel: In the time that Solomon the king ordained the law of Erubin and that of washing the hands (before meals) a heavenly voice was heard, which said [Proverbs xxiii. 15]: "My son, if thy heart be wise, my heart shall rejoice, even mine," and [ibid. xxvii. 11]: "Become wise, my son, and cause my heart to rejoice, that I may give an answer to him that reproacheth me."

Rabha preached again: It is written [Solomon's Song vii. 12-13]: "Come, my friend! let us go forth into the field; let us spend the night in the villages; let us get up early to the vineyards; let us see if the vine have blossomed, whether the young grape have opened to the view, whether the pomegranates have budded: there will I give my caresses unto thee." "Come, my friend! let us go into the field." Thus said the community of Israel before the Holy One, blessed be He: "Creator of the Universe! Judge us not by the inhabitants of the large cities; for there is robbery, rapine, false-swearing, and swearing in vain

among them. Come into the field and we will show Thee many scholars who study the Law although they are in poor circumstances." "Let us spend the night in the villages." * This means: Come with us and we will show Thee so many, to whom Thou hast shown so much mercy and still they deny Thee. "Let us go up early into the vineyards," refers to the synagogues and the houses of learning. "Let us see if the vine have blossomed," refers to those who study the Holy Writ. "Whether the young grape have opened to the view," refers to those who study the Mishna. "Whether the pomegranates have budded," refers to those who study the Gemara. "There will I give my caresses unto thee," signifies: We will show Thee our children who honor and revere us by studying the Law and walking in Thy ways.

Said R. Hamnuna: It is written [I Kings v. 12]: "And he spoke three thousand proverbs and his songs were a thousand and five." From this it is inferred, that Solomon said three thousand proverbs for every one of the biblical commandments and gave one thousand and five reasons for each of the rabbinical commandments.

Rabha preached: It is written [Ecclesiastes xii. 9]: "And in addition to this that Koheleth was wise, he continually also taught the people knowledge, and he probed, and searched out, and composed many proverbs." "He continually also taught the people knowledge" signifies, that he supplied the Holy Writ with the Massoretic text and explained the different passages with parables and proverbs. "And composed many proverbs." Ula said in the name of R. Eliezer, that prior to the time of Solomon the Scriptures were like a basket without handles, that could not be grasped, and when Solomon came, he provided the Holy Writ with all the precautionary measures necessary for its preservation.

R. Hisda said in the name of Mar Uqba: "It is written: 'His head is bright as the finest gold, his locks are like waving foliage, and black as a raven.'" (Locks are expressed by the Hebrew word "Taltalim," also meaning heaps.) The inference can be made from this passage, that upon every letter contained in the Scriptures a heap of ordinances can be based, and further, that the one wishing to find all the beauties contained in the

* The Hebrew term for "in the villages" is "bakphorim," and if read "bakophrim" through transposition of the vowel would signify: "Among the infidels."

Holy Writ must devote himself to its study until he becomes "black as a raven." Rabha said not "until he becomes black as a raven," but until he becomes as hard-hearted towards his family as a raven is towards its young.

As it happened that R. Ada bar Mattna wished to go and seclude himself in the house of learning and his wife said to him: "What shall I do with thy little ones?" and he answered: "There are still herbs in the field."

It is written [Deuteronomy vii. 10]: "And repayeth those that hate him to their face, to destroy them. He will not delay, to him that hateth him he will repay him to his face." Said R. Jehoshua ben Levi: "Were it not for this passage, it would be impossible to make such an assertion; for this is like a mortal who would rid himself of a burden which had become too heavy to carry." * The last part of the passage implies, that while punishment is not delayed to the wicked, the reward to the strictly righteous *is* delayed. So said R. Aila and it is similar to the dictum of R. Jehoshua ben Levi: "It is written [ibid. ii.]: 'The ordinances which I command thee this day, to do them,' " and signifies, that the commandments are to be fulfilled this day, but the reward for so doing is put off for a future day, *i.e.*, will be given in the world to come."

"R. Jehudah said: 'The maximum distance,' " etc. The schoolmen propounded a question: Does R. Jehudah mean to exclude the space occupied by the well in the maximum distance or does it refer to the enclosures plus the space between the enclosures and the well? Come and hear: We have learned: What is meant by "the enclosure may be quite close to the well"? That the head and greater part of the body of the animal be within the enclosures, and what is meant by "it may be placed at some distance from the well"? That the space between the well and the enclosure may be of sufficient size to permit of the planting of one or even two k^urs of grain therein. R. Jehudah, however, says, that it may be only of two saahs' capacity, but not more. The sages said to him: Wilt thou not grant us that as regards a cattle-pen, fold, bleaching-ground, or a courtyard, a capacity of five or even ten k^ur is permissible? He answered them: "Yea; but in the latter cases we have a

* This expression is rendered in Hebrew by the term כביכול, a literal translation for which cannot be found. The implied meaning of the term, however, is: When speaking of God, the assumption is made, that if He were a concrete body, this or that could be said of Him.

partition whereas in the case of a well there are only enclosures.” R. Simeon ben Elazar, however, said, that in the case of a well, the square of a space sufficient for the planting of two saahs of grain is allowed, and by “it (the enclosure) may be placed at some distance from the well” is meant such a square plus the two ells necessary for the accommodation of the head and larger part of the body of the animal. Now, then, if R. Simeon ben Elazar means to permit the two ells in addition to the square space permitted, it is evident, that R. Jehudah, who differs with him, means to include them in that space.

Nay; this is not so, after all! R. Jehudah also means to allow the two ells in addition to the permitted space, but he differs with R. Simeon ben Elazar in the measurement of the space. The latter holds, that the space should be square, *i.e.*, if it be one hundred ells long it must be one hundred ells wide, whereas according to R. Jehudah it may be one hundred ells long and only fifty ells wide (for such was the measure of the court of the tabernacle). [The end of the Boraitha is:] A rule was laid down by R. Simeon ben Elazar: Every space used for a dwelling of any description, *e.g.*, a pen, a fold, a bleaching-ground, or a courtyard, may be of a size large enough to permit even of the planting of ten kurs of grain therein; but a roofed dwelling such as the huts in a field must not exceed two saahs’ capacity.

MISHNA: R. Jehudah said: If a public thoroughfare passes through the enclosure, it must be closed up with boards at the sides facing the thoroughfare; but the sages hold, that it is not necessary.

GĒMARA: Said R. Itz’hak bar Joseph in the name of R. Johanan: “There is no such a thing as public ground in Palestine.”* R. Dimi sitting in his college repeated this Halakha. Said Abayi to him: “What is the reason of this assertion? Shall I assume, that it is because the rocks of the mount Tyre surround Palestine on one side and a canal on another side? Does not the river Euphrates on the one side and the river Diglat on the other side surround Babylon and in like manner the ocean surrounds the world, then there should be no public ground at all. Perhaps R. Johanan meant to say, that the path ascending the mountain and the other descending from the mountain is not public ground?” Answered R. Dimi: I see

* *Vide* Introduction to Vol. I., p. xxviii, § iv.

thou hast a wise head, and it seems to me as if thou wert among the pillars of R. Johanan's college, when he pronounced this Halakha.

When Rabhin came from Palestine, he said in the name of R. Johanan, and according to another version in the name of R. Abbahu quoting R. Johanan: The paths by which the mountains in Palestine are ascended and descended do not come under the head of public ground, because they were not encountered on the journey through the wilderness (the pillar of cloud removing all hills and mountains from the path of the children of Israel).

MISHNA: Be it a public cistern, a public well, or a private well, such an enclosure of boards must be made for it; to a private cistern, however, a partition ten hands high must be made. Such is the dictum of R. Aqiba; but R. Jehudah ben Babah said: An enclosure of boards must be made only for a public well; for all others it is sufficient to make a rope fence ten hands high.

GEMARA: Said R. Joseph in the name of R. Jehudah quoting Samuel: "The Halakha prevails according to R. Jehudah ben Babah." And he said again in the name of the same authority: "It is allowed only to make an enclosure around a well containing spring-water." The reason this latter saying of R. Jehudah ben Babah is quoted is, because in the Mishna he states, that an enclosure must be made only for a public well and we might assume that even if the well contained rain-water, providing it be only a public well, an enclosure may be made around it: therefore we are taught, that even though it be a public well it must contain spring-water.

MISHNA: Furthermore, R. Jehudah ben Babah said: "In a garden or wood-shed over seventy ells square and encompassed by a wall ten hands high, it is lawful to carry things, provided there is a watch-box or dwelling of some kind (within the garden or shed), or they are close to town." R. Jehudah, however, said: Even though there be nothing else within them than a cistern, a reservoir, or a cave, it is lawful to carry things (in the garden or shed). R. Aqiba said: Even if the garden or wood-shed contain none of these objects mentioned, one may carry things within them (on Sabbath), provided they do not measure much over seventy ells square. R. Eliezer said: "If the length of such a garden or wood-shed exceed its width by even one ell, it is not permitted to carry things therein." R. Jose, however, said: Even if its length be twice its width, it is lawful to carry things therein.

R. Ilai said: I heard from R. Eliezer, that even though the garden or wood-shed be large enough to permit of a whole kur of grain being planted within it, it is permitted to carry things therein on Sabbath. I also heard from him, that if one of the householders of a court had forgotten and not combined in the erub, he must not carry anything out of or into his house, but the other inmates of the court may do so. Furthermore, I heard from him, that a man can fully acquit himself of the duty (of eating bitter herbs) on the Passover by using hart's-tongue (scolopendrium). I inquired among all his disciples seeking a colleague who had also heard him pronounce these opinions, but I could not find one.

GEMARA: "*R. Aqiba said: Even if the garden,*" etc. Is this not the same as was said by the first Tana? There is a difference in a trifling matter between the two, as we have learned in the following Boraitha: "There is a trifle over the seventy ells and something, which the sages failed to specify, and that is the difference between the space of two saahs' capacity (which is 100 by 50 ells) and the square of seventy ells and something (two saahs' capacity is equal to 100 by 50 ells, or 5,000 square ells, and $70\frac{2}{3}$ by $70\frac{2}{3}$ ells is equal to $4,994\frac{2}{3}$ square ells, hence the difference, $5\frac{1}{3}$ square ells). Whence do we adduce this? Said R. Jehudah: "It is written [Exodus xxvii. 18]: 'The length of the court shall be one hundred cubits and the breadth fifty by fifty.' This means to say, that the fifty cubits of length exceeding the breadth should be apportioned to the breadth, so as to make the whole seventy cubits and four spans square." * What is the correct interpretation of the passage? How can one hundred ells in length by fifty by fifty in breadth be understood? Said Abayi: "The passage implies that the tabernacle must be placed immediately beyond where the court is fifty ells in length, and being itself thirty ells long and ten wide, it will have a frontage of fifty ells and twenty ells on each remaining side."

"*R. Eliezer said: 'If the length,'*" etc. Did we not learn in a Boraitha: R. Eliezer said: "If the length exceeded double the width of the garden or wood-shed by one ell, things must not be carried in them"? Said R. Bibhi bar Abayi: Our Mishna must also be read *not* "if the length exceed the width,"

* These figures are approximate and the correct figures depend upon whether the cubit measured 5 or 6 spans.

but "if the length exceed *double* the width." If such be the case, then is this not the same as said by R. Jose? The difference between them is the one square ell which R. Eliezer adds as a proviso but which R. Jose does not incorporate in his dictum, for the former says (according to the above Boraitha): "Even if the length exceed double the width by one ell," while the latter says, "even if the length be double the width (exactly)."

"*R. Jose, however, said,*" etc. It was taught: R. Joseph in the name of R. Jehudah, quoting Samuel, said: The Halakha prevails according to R. Jose's dictum in that a square is not essential. R. Bibhi, also, in the name of R. Jehudah, quoting Samuel, said: "The Halakha prevails according to R. Aqiba, who says, that the garden or wood-shed need not contain any of those objects." Samuel found it necessary to make both statements in order to make the ordinance more lenient, *i.e.*, that neither was it essential that the garden or wood-shed be square nor that it contain a watch-box, dwelling, etc.

If a wood-shed of more than two saahs' capacity was fenced in for a dwelling, and the larger part of it was used to sow grain therein, it is like a garden and things must not be moved therein, because the fact that it was used for the purpose of sowing grain nullifies the original intention to use it for a dwelling. If, however, trees were planted in the greater part of it, things may be carried therein, because it is considered as a yard or court adjacent to a house. What is the law, however, if only in the smaller part of such a wood-shed grain was sown? Said R. Huna the son of R. Jehoshua: If the wood-shed was of two saahs' capacity, it is allowed to carry things therein under those circumstances, but if it was of a larger capacity, it is not allowed (to carry things therein). This will be in accordance with R. Simeon, whose opinion will be cited later (Chapter IX., Mishna i.). If trees were planted in the wood-shed: according to R. Jehudah in the name of Abhimi, things may be carried only if benches were made between the trees, but according to R. Na'hman, this is not necessary, and R. Huna the son of Jehudah is of the same opinion as R. Na'hman.

Said R. Na'hman in the name of Samuel: A wood-shed of over two saahs' capacity, which was not fenced in for a dwelling, stood near a house which was subsequently built adjoining it. What is to be done in order to make it lawful for the occupants of the house to carry things to and from the wood-shed and the

house on the Sabbath? First, a breach of more than ten ells should be made in the wall of the wood-shed (thereby rendering the walls useless); then the breach should be filled up so as to make it ten ells only. This will be regarded as a door, and will make it lawful to carry things between the house and the wood-shed.

The schoolmen asked: "How is it, if the man tore down and rebuilt the walls of the wood-shed piecemeal, *i.e.*, ell by ell until more than ten ells were torn down and then by rebuilding just ten ells of the breach were left. (Must over ten ells be demolished at once in order to render the wall useless or does it suffice if eventually such a breach was made even if it was done ell by ell)?" The answer was: Is this not the same as we have learned in a Mishna (in Tract Kelim), that the vessels of householders which contain a hole larger than a pomegranate are not subject to defilement; and Hezkyah asked, what the law was if a hole the size of an olive was made in the vessel and stopped up and this was repeated until the hole became the size of a pomegranate. R. Johanan answered him and related that Rabbi taught this in another Mishna concerning a sandal, one ear of which had become torn and was mended when the other became torn and was also mended, the sandal after the second mending is not subject to defilement. Rabbi was asked why he had ordained thus, for after the second mending, the same condition existed in the sandal as after the first. He answered: Nay; when the other ear was broken off the sandal was virtually destroyed and after it had been mended it assumed a different appearance. This statement can also be applied to the wall, which with each successive breach of one ell assumed a different appearance. The answer was: Such explanations are superhuman (and can only be made by an angel). According to another version, the answer was: "This is a man (who has knowledge)." *

Said R. Kahana: "In a bleaching-ground (behind a house) things must not be carried except for a distance of four ells." Said R. Na'hman: "If a door was erected in the bleaching-ground, things may be carried over its entire extent; because the door renders this lawful."

If a wood-shed of over two saahs' capacity which had been

* The Gemara has evidently omitted the names of the different sages who carried on the above argument.

intended for a dwelling was filled with water it is considered as if planted with trees, and things may be carried over its entire extent. Said Ameimar: Provided the water was fit to drink; but if not fit for drinking purposes, things must not be carried within the wood-shed.

There was a bleaching-ground in the city of Punnahara, one side of which opened into the city and the other side into a path leading to a vineyard, which in turn opened into the banks of a lake. Said Rabha: A side-beam should be erected on the side of the bleaching-ground facing the city, and if this is of use as an entry to the city, it will also be a valid entry for the bleaching-ground. This makes it lawful to carry things both in the entry and in the bleaching-ground; but as for carrying from the entry into the bleaching-ground or *vice versa*, there is a difference of opinion between R. Aha and Rabhina. One permits this because the bleaching-ground is uninhabited. The other prohibits this, lest the bleaching-ground become at some time inhabited and things will be carried to and fro nevertheless.

A wood-shed of over two saahs' capacity which was not fenced in for a dwelling and was made smaller by planting trees therein, is not considered diminished in size. If, however, a pillar was erected within it, ten spans high and four wide, it is considered diminished. If the pillar was less than three spans wide, all agree, that it is of no account; but if it be over three spans and less than four, Rabha said, that the wood-shed is thereby diminished because a thing which is over three spans wide does not come within the law of "lavud" (attachment), and is hence considered an independent subject; Rabha, however, maintains, that it is not diminished, for a subject which is less than four spans is of no account.

If a partition was made in the wood-shed four spans distant from the wall, things may be carried over the entire wood-shed. If the partition was less than three spans from the wall, all agree that this would be unlawful. If over three and less than four, Rabba said it is lawful, and Rabha said it is not. R. Shimi, however, taught this ordinance in a more lenient form, namely: If the partition was over three and less than four spans from the wall, all agree, that it is lawful; but if it was less than three then there is a difference of opinion.

Rabba bar bar Hana propounded a question: "If the bottom part of a partition was swallowed up by the earth and the top part remained, can it be accounted a lawful partition or

not?" What was the object of this question? If it refers to a partition which was erected on the estate of a deceased proselyte, then this question is identical with that of Jeremiah of Bira, which is decided in Tract Baba Bathra; and if it refers to the Sabbath-law, *i.e.*, if a partition was made on Sabbath, then the question has already been decided previously (page 47).

Concerning a wood-shed of three saahs' capacity which was provided with a roof of only one saah capacity Rabha said: The atmosphere of the unroofed portion of the wood-shed nullifies the roof which has been erected and things must not be carried within it. R. Zera, however, said: The atmosphere of the unroofed portion does not interfere with the roof which is considered as attached to the part of one saah's capacity and things may be carried within the roofed part with impunity. I admit, however, that if a wall of the wood-shed facing a courtyard was entirely demolished, the atmosphere of the adjoining courtyard renders the remaining walls void and makes the wood-shed one of over two saahs' capacity.

There was a garden on the estate of the Exilarch containing a pavilion. On a Friday R. Huna bar Hinana was told to go out there and make the pavilion suitable so that things could be carried and meals taken within it on the morrow. He went and placed some sticks of less than three spans in height in the ground around the pavilion. Rabha then went out and tore down the sticks. R. Papa and R. Huna the son of R. Jehoshua even went and hid the sticks so that R. Huna bar Hinana could not obtain them again (because all three held, that the sticks would have been of no account whatever). So the Exilarch applied to them the verse [Jeremiah iv. 22]: "Wise are they to do evil, but how to do good they do not know."

"*R. Ilai said: I have heard from R. Eliezer, that even though a garden or wood-shed be large enough to permit of the planting of a whole kur,*" etc. This Mishna is not in accordance with the opinion of Hananiah, who said, that even if they have a capacity of forty saahs, as a parade ground for soldiers in front of the king's palace, things may be carried within them, so it was taught in a Boraitha. Said R. Johanan: Both R. Eliezer and Hananiah adduced their opinions from the same passage, viz. [II Kings xx. 4]: "And it came to pass, before Isaiah was gone out into the middle court," etc., while subsequently city is mentioned and hence the inference that a parade ground be it even as large as a medium-sized town is still called a court provided

it be in front of the king's palace. Their point of difference is, that one holds a medium-sized town to have a capacity of one kur while the other holds that it has a capacity of forty saahs.

"I also heard from him," etc. Did we not learn in another Mishna, that neither the householder himself nor the other inmates of the court (yard) may carry anything to and from his house? Said R. Huna the son of R. Jehoshua in the name of R. Shesheth: This presents no difficulty. The Mishna is in accordance with R. Eliezer, who holds, that if one had resigned his right to the use of the court he also resigned his privilege of the use of his house, but according to the opinion of the rabbis it may be said that, if he had resigned his right to the court, he did not thereby resign his privilege of the use of his house. Is this not self-evident? (Why should we say, it may be said?) They cannot differ on any other point. Said Rahabha (Rabha): I and R. Huna bar Hinana have explained this as follows; The case was, where there were five inmates of one court, and one of them forgot to combine in the erub; according to R. Eliezer, at the time that he resigns his right to the use of the court in favor of all the other inmates he need not do so to each one individually also, and he at the same time resigns the privilege of using his house to the other inmates, while according to the Rabbis, he must do so to each one of the inmates individually and must also bear in mind to resign his privilege of using his house.

CHAPTER III.

REGULATIONS CONCERNING WHEREWITH AND WHERE AN ERUB MAY BE MADE. WHEREBY AN ERUB BECOMES INVALID. THE ERUB OF LIMITS, WITH ITS CONDITIONS. WHEN A FESTIVAL OR NEW-YEAR PRECEDES THE SABBATH.

MISHNA: The' Erub may be effected with all kinds of victuals excepting water and salt. All kinds of victuals may be bought with the proceeds of the second tithe except water and salt. One who has vowed to abstain from food, may partake of water and salt. The Erub may be made for a Nazarite with wine and for an ordinary Israelite with heave-offering. Symmachus said: Unconsecrated things only may be used for the Erub of an ordinary Israelite. The Erub of a priest may be placed on a spot which had formerly been used as a cemetery. R. Jehudah said: It may even be placed in an actual burying-ground, since the priest may make a partition between himself and the burying-ground and then eat the Erub.

GEMARA: R. Johanan said: "We must not accept all the Mishnaoth that commence with a general rule as final, even such as are supplemented with an exception." Said Rabhina, according to another version R. Na'hman: We can infer this from our Mishna above. It is stated therein, that with all kinds of victuals an Erub may be effected, excepting water and salt, and there are certain mushrooms with which an Erub cannot be effected also. Consequently we may assume from this Mishna, that all those commencing with a general rule, even such as are supplemented with exceptions, need not be accepted as final.

"*All kinds of victuals,*" etc. One of the two sages, R. Eliezer or R. Jose bar R. Hanina, taught as follows: The Mishna means to state, that an Erub must not be made with either water or salt, but with the two together it is allowed," and one of them taught the same with reference to second tithes, viz.: With the proceeds of the second tithes salt *or* water must not be bought; but the two together may be bought. The one who applies this opinion to second tithes does so even to a greater

degree in the case of the Erub; but the one who applies this to an Erub does not do so in the case of the second tithes; because some fruit must be bought therewith. When R. Itz'hak came from Palestine, he taught this to apply to second tithes also.

An objection was made: R. Jehudah ben Gadish testified in the presence of R. Eliezer, that his father's house used to buy fish-brine with the proceeds of the second tithes. Said R. Eliezer to him: "Perhaps thou didst not observe, that there were pieces of fish in the brine." Now, R. Jehudah ben Gadish himself testifies that fish-brine was bought and that is at least an article of food; but he certainly would not permit salt and water. Said R. Joseph: "R. Itz'hak in permitting water and salt to be bought with the proceeds of second tithes refers to a case where the water also contained some oil." Said Abayi: "If such be the case, why does he say water and salt, it would be virtually buying the oil?" The answer is: "If the money was paid for the oil and incidentally also for the water and salt." Is it allowed to buy it indirectly? Yea; it is allowed, as we have learned: Ben Bagbag said: It is written [Deut. xiv. 26]: "And thou shalt lay out that money for whatsoever thy soul longeth after, for oxen, or for sheep, or for wine, or for strong drink, or for whatsoever thy soul asketh of thee." "For oxen" signifies for oxen together with the hide, "for sheep" with the wool, "for wine" together with the barrel, "or for strong drink" even if it turned sour.

R. Johanan said: "The man who will explain to me the dictum of Ben Bagbag concerning the oxen, I will carry his clothes after him to the bath-house." Why is this so? Wherein does he find a difference between the oxen and the sheep? Because if we infer from the verse, that the sheep may be bought together with their wool, which can be shorn, it is self-evident that an ox must be bought with the hide, for how can it be bought otherwise? Hence the inference taken by Ben Bagbag from the oxen is superfluous.

Wherein do R. Jehudah ben Gadish, R. Eliezer, and the following Tanaim differ? R. Jehudah ben Gadish and R. Eliezer interpret an extension and a limitation thus: "Thou shalt lay out that money for whatsoever thy soul longeth" is an extension then; "for oxen, or for sheep, for wine or for strong drink" is a limitation; "or for whatever thy soul asketh of thee" is again an extension. Thus we have an extension, a limitation and another extension. What is the extension? "For every-

thing." But what is the limitation? According to R. Eliezer, it is fish-brine, and according to R. Jehudah ben Gadish it is water and salt, and the other Tanaim do not refer to extension and limitation but to the effect of general and particular terms, as we have learned in a Boraitha: "Thou shalt lay out that money for whatsoever thy soul desireth" is a general term, "for oxen, for sheep, etc.," is a particular term, and again "or for whatsoever thy soul asketh of thee" is a general term; hence we have a general term, a particular term and another general term, and wherever there is a particular term in the midst of two general terms the particular term determines the rule. Thus the particular thing to be bought with the proceeds of second tithes is fruit of fruit (*i.e.*, a calf born of a cow or oil of olives) and everything generated above the ground; but salt and water or fish-brine is not included.

In another Boraitha however we were taught, that as the particular term refers to something born on or growing out of the ground, so does also the general term refer to subjects of this kind. What is the point of difference between the two Boraithas? Said Abayi: "Concerning fish." According to the Boraitha which holds, that the particular term refers to fruit of fruit and everything generated above the ground, fish is also included as it derives its sustenance from the earth; but according to the Boraitha which holds, that only something born on or growing out of the ground is meant, fish is excluded because it is generated in the waters.

Said R. Jehudah in the name of R. Samuel bar Shilas quoting Rabb: "An Erub may be made with lettuce, Halaglugoth (a certain edible plant) and clover but not with green rye-stalks and bad figs." How can he say that clover may be used? Have we not learned, that clover may be eaten only by those who have many children but not by such as have none? Have we not learned that for a Nazarite an Erub may be made with wine and for an ordinary Israelite with heave-offering? Although neither of these two are allowed to partake of those things, there are others who may do so and the same case can be applied to clover, while there are some who are not allowed to eat it, there are others who may; hence all may use it for the purpose of making an Erub.

With green rye-stalks it is not allowed? Did not R. Jehudah say in the name of Rabb, that hops and green rye-stalks may be used to make an Erub and the benediction to be pronounced

over these is "Blessed be He, etc., who hath created the fruits of the earth"? This presents no difficulty; for Rabh said, that rye-stalks were not permitted to be used, before he came to Babylon, not knowing that it was used for food, but when he learned that such was the case, he allowed its use.

With bad figs it is not allowed? Have we not learned, that palm-tops may be bought with the proceeds of second tithes and that they are not subject to defilement incidental to eatables, and bad figs may also be bought with the proceeds of second tithes but they *are* subject to the defilement? R. Jehudah, however, said that palm-tops were considered the same as trees under all circumstances with the exception that they may be bought with the proceeds of second tithes and that bad figs are considered the same as other fruit except that they are not subject to tithing? Thou sayest, they are subject to defilement? That is a different matter. The reason of that is, as R. Johanan stated in another case, that they can be made good through cooking over a fire and therefore they are subject to defilement, but they must not be used for making an Erub.

The text states, that hops and green rye-stalks may be used for making an Erub, etc. What quantity of hops should be used? As R. Yechiel said elsewhere, that a handful is sufficient, so it is also in this case; a handful will suffice for two meals. What quantity of green rye-stalks must be used? Said Rabba bar Tuvia bar Itz'hak in the name of Rabh: A bundle of the same size as that made by the peasants.

R. Helkyah bar Tuvia said: An Erub may be made with a Kalia (a certain root as hard as a piece of dry wood). How is that possible? Can it be eaten? He means to say when the root is young and tender. What quantity should be used? Said R. Yechiel: "A handful."

R. Jeremiah went out into the villages and was asked whether an Erub may be made with bean-pods. He did not know what to answer. When he came back to the college, he was told, that R. Janai said, "It was allowed," and as to the quantity R. Yechiel said, "A handful."

R. Hamnuna said: "An Erub must not be made with raw mangold. Because R. Hisda said that raw mangold can kill a man." But we see, that some people do eat it and it does not harm them? Yea; but they eat mangold which is partially cooked and is not quite raw.

R. Hisda said: "Cooked mangold is good for the heart, for

the eyes and above all for the stomach." Said Abayi: Such is the case if the mangold was cooked over the centre of a big fire so long that it sizzled.

Rabha said at one time: I feel, that I am at present in the same condition as Ben Azai was in the markets of Tiberias. [Ben Azai used to lecture in the markets of Tiberias and in his time was the most sagacious among all the sages, so that he once said: All the sages of Israel are as the peel of garlic compared to me except the bald-head (meaning R. Aqiba).] So one of the scholars came to Rabha and asked him, how many apples it would take to make an Erub? He answered: "Art thou then certain that an Erub may be made with apples?" With apples it is not allowed? Have we not learned in a Mishna, that a quantity of mixed eatables equal to two eggs is sufficient to make the body of a man incapable of touching heave-offerings? * If there is sufficient of those mixed eatables for two meals they may be used for making an Erub. If there is a quantity of those mixed eatables equal to one egg, they are subject to the defilement incidental to eatables. Why this question? 'Tis true that the Mishna mentions all eatables, but have we not learned, that wherever a general rule is laid down, even when supplemented with exceptions, it need not be accepted as final? Consequently apples may be excluded? This question is not based upon the statement that all eatables may be used, but upon the fact that a quantity of mixed eatables equal to two eggs may be used for an Erub, and if equal to one egg it is subject to defilement incidental to eatables. And if apples are subject to defilement, why should they not be used for an Erub? What should be the quantity of apples used? Said R. Na'hman: "A Kabh."

An objection was raised: R. Simeon b. Elazar said: A measure of spices, a litter of herbs, ten nuts, five *persicum* (apricots), two pomegranates, one citron. (This was a prescribed quantity for giving charity by the owner of a vineyard.) And Ghurseck bar Dori in the name of R. Menashiah bar Shegublick quoting Rabh said: The same quantity is sufficient for an Erub. Now why shall not apples also be equal to apricots and only five should be sufficient for an Erub? The *persicums* are more valuable, hence five are sufficient, but apples not being so valuable, therefore a Kabh is required.

Said R. Joseph: May the Lord forgive R. Menashiah bar She-

* Vide appendix to Tract Sabbath, Part II.

gublick. I said this to him in reference to the following Mishna and he said this in reference to the above Boraitha. This is the Mishna (mentioned above). Nothing less than a half a Kabh of wheat and a Kabh of barley should be given to a poor man by the owner of a barn. R. Meir, however, says a half a Kabh of barley and one Kabh and a half of Kusmin,* a Kabh of three or the weight of a maneh† of pressed figs; R. Aqiba said a half of a maneh; and a half a lug of wine; R. Aqiba said a quarter of a lug; and a quarter of a lug of oil; R. Aqiba said an eighth of a lug. Concerning other fruits, however, said Abba Saul: A measure of fruit, the sale of which would realize sufficient for the purchase of two meals; and to this Mishna I added in the name of Rabh that the same quantities are needed for an Erub.

The text said: If there is sufficient of mixed eatables for two meals they may be used for an Erub. R. Joseph meant to say: "If there is enough of each kind for one meal." Said Rabba to him: "Nay; it is sufficient if there was enough of each kind for a half, a third or even a quarter of a meal."

Rabh said: "One may make an Erub with wine of the quantity of two quarters of a lug." Must we have so much? Did we not learn that R. Simon ben Elazar said: "With sufficient wine necessary for the eating of two meals," and by that he means boiled wine in which bread sufficient for two meals is soaked.

Rabh said again: "One may make an Erub with vinegar sufficient for the soaking of food for two meals." R. Gidel said in the name of Rabh: "By that is meant enough vinegar to soak herbs sufficient for two meals"; and according to others R. Gidel said in the name of Rabh (not two meals of herbs only but) sufficient wine to soak the herbs which are usually eaten in two meals.

R. Zera said in the name of Samuel: "It is allowed to make an Erub with beer, but if three lugs of it be poured into a Mikvah, the Mikvah becomes invalid." How much beer is necessary for an Erub? R. Ahu the son of R. Joseph wished to

* There is a difference of opinion between the commentators of the Mishnas. Some maintain that it is a species of pease and is used as fodder for cattle, and some maintain that it is a species of grain. See Maimonides' commentary on the Mishna Sabbath, Chap. XX. See also Hamashbir, Vol. V., Note cxxiii.

† Weight mentioned in Bible, I Kings, chap. x. 17, and is equal to 100 drachms.

state in the presence of his father, that two lugs were necessary, *i.e.*, one lug for each meal. Said R. Joseph: This is not so. There are men who drink only one goblet-full in the morning and another in the evening (a goblet-full is supposed to be a quarter of a lug); hence two goblets-full are sufficient for an Erub.

What is the quantity of dates sufficient for an Erub? Said R. Joseph: "One Kabh." What is the quantity of Sheshitha (a dish made of parched corn and honey)? Said R. A'ha bar Pinhas: Two spoons-full. What is the quantity of roasted ears (of corn)? Said Abaja: Two bunis (measures used in the city of Pumbaditha).

Abayi said again: "My mother told me, that roasted ears are good for the heart and drive away care." He said again: My mother told me, that one who has heart-disease should take the meat from the right shoulder of a ram, bring some willow branches, burn them, and roast the meat on the coals. Then he should eat the meat and drink wine thinned with water.

Said R. Jehudah in the name of Samuel: "Of all things that are eaten with bread it is sufficient to use a quantity eaten with bread at two meals; but of such things as are eaten by themselves sufficient for two meals must be used for an Erub. Of raw meat sufficient for two meals if eaten by itself must be used, but of cooked meat Rabba said it is sufficient to use as much as is eaten with bread at two meals, and R. Joseph said as much as is eaten at two meals by itself should be used, and he said: "Whence do I adduce this? Because I saw that the Persians eat roasted meat without bread." Rejoined Abayi: Are the Persians the majority of the whole world?

R. Hyya bar Ashi said in the name of Rabh: "An Erub may be made with raw meat." R. Simi bar Hyya said: "An Erub may be made with raw eggs." And how many should be used? Said R. Na'hman bar Itz'hak: "Sinai* said, two eggs should be used."

R. Huna in the name of Rabh said: If one vowed, that he would not eat this loaf of bread, an Erub may nevertheless be made for him with that loaf; because though he must not eat it, others may. If he says, however, that this loaf is on him, *i.e.*, he devotes this loaf of bread (in honor of the Lord), it must not be used for an Erub.

* Sinai is another name for R. Joseph, who was well versed in Mishnas and Boraithas.

An objection was made: If one vowed concerning a certain loaf of bread, an Erub may nevertheless be made with it. Shall we not assume that he said: "This loaf of bread is on me"? (*i.e.*, he devoted that loaf of bread in honor of the Lord). Nay; he said: "I vow not to eat this loaf of bread," and such seems to be the case; because the latter part of the Boraitha states distinctly, that he said: "I vow not to taste any part of this loaf." What is the law, however, if the man said that the loaf is on him? It must not be used for an Erub? If that is so, why was it taught in the latter part of the Boraitha: "If he said the loaf is consecrated, an Erub must not be made with it, because it is not allowed to make an Erub with consecrated things." Why should this whole argument be repeated? Could it not be simply stated, that if the man vows not to eat the loaf an Erub may be made with it; but if he declares the loaf to be on him, an Erub must not be made with it? But as it does not say, that the loaf is on him in the first part of the Boraitha, there is a contradiction to R. Huna? R. Huna said the same thing as R. Eliezer said elsewhere. Did R. Eliezer indeed say so? Did we not learn, that R. Eliezer said: "If a man said: 'This loaf of bread is on me,' an Erub may be made with it, but if he said, 'This loaf is consecrated,' it must not be used for an Erub, because an Erub must not be made with consecrated things"? There are two Tanaim who report the dictum of R. Eliezer in different ways.

"*An Erub may be made for a Nazarite with wine.*" This Mishna is not in accordance with the opinion of Beth Shammai, as we have learned in the following Boraitha: An Erub must not be made for a Nazarite with wine, nor for an ordinary Israelite with heave-offering. So said Beth Shammai; Beth Hillel, however, said: "This may be done." Said Beth Hillel to Beth Shammai: "Will ye not admit, that an Erub may be made for a man who is obliged to fast on the Day of Atonement, although he must not eat it?" They answered: "Yea." "Then," rejoined Beth Hillel, "as we are permitted to make an Erub for a man fasting on the Day of Atonement, so may we also make an Erub for a Nazarite with wine, and for an ordinary Israelite with heave-offering." What reason have Beth Shammai for prohibiting this? They give as their reason the fact, that a man may eat the Erub while it is yet day (before the eve of the Day of Atonement); but a Nazarite must not at any time drink wine nor an ordinary Israelite eat heave-offering.

This whole Boraitha is not in accordance with the teachings of Hananiah, as we have learned in the following Boraitha: "Beth Shammai do not recognize an Erub unless a man carries out his bed and all the utensils he intends to use to the place where he proposes to make the Erub, so taught Hananiah."

According to whose opinion is the Boraitha which states, that a man who deposits his Erub while wearing a black garment must not go out on the morrow dressed in a white garment, and *vice versa*? Said R. Na'hman bar Itz'hak: This is in accordance with the opinion of Beth Shammai as interpreted by Hananiah.

"*Symmachus said: 'Unconsecrated things only may be used,'*" etc. Consequently Symmachus does not dissent as regards making an Erub for a Nazarite with wine, but does dissent as regards heave-offering for the Erub of an ordinary Israelite. Why is this so? Because a Nazarite may go to a sage and be declared free from his vows as a Nazarite. As regards heave-offering for the Erub of an ordinary Israelite, he holds with the Rabbis, who decreed, that all things which are prohibited by rabbinical law on account of the Sabbath-rest are also prohibited for the time of twilight, and as regards heave-offering, an ordinary Israelite must not handle it on Sabbath on account of Sabbath-rest.

According to whose opinion is the following Mishna? There are sages who hold, that the prescribed quantities which are dependent upon the size of a man, should be measured accordingly. And the two meals which must be constituted by the Erub, should be two meals sufficient for the man who deposits the Erub? Said R. Zera: "This is according to Symmachus, who holds, that an Erub must be according to the requirements of the man for whom it is made."

"*The Erub of a priest may be placed on a spot which had formerly been used as a cemetery.*" R. Jehudah bar Ami said in the name of R. Jehudah, that a spot which had formerly been used as a cemetery becomes clean of itself if trodden down by people.

"*R. Jehudah said: 'It may be placed in an actual burying-ground.'*" It was taught: Because the priest can go there in a wagon; for R. Jehudah holds, that a temporary tent is sufficient to intervene between a man and uncleanness. Furthermore we have learned that for a ritually clean priest, clean heave-offering may be placed as an Erub even in a grave and for the same reason as above, in spite of the fact that the heave-offering becomes unclean and the priest is at no time allowed to eat it.

MISHNA: For the Erub doubtful grain (Damai) (of which it is not known whether the legal dues like tithes, etc., have been acquitted) may be used; first tithes, from which the heave-offerings have been taken; and second tithes and consecrated things that have been redeemed. For priests, the first of the dough and heave-offerings may be used. It is not lawful however to use unseparated grain (from which it is certain that the legal dues have not been separated), or first tithes from which the heave-offering had not been taken, or second tithes and consecrated things which had not been redeemed.

GEMARA: [The reasons for the above Mishna and the discussions appear several times throughout the Talmud. We shall render them, however, but once and that in Tract Berachoth (benedictions), which contains the complete and identical version.]

MISHNA: Should a man send his Erub by the hand of a deaf and dumb person, an idiot, a minor or one who does not acknowledge the legal necessity of an Erub, it is not a valid Erub; if, however, he had commissioned another proper person to receive it from his messenger, it is a valid Erub.

If a man puts the Erub in a tree higher than ten spans above ground, it is not valid; but if he puts it lower than ten spans, it is. If he had put it into a pit, even though it be a hundred ells deep, the Erub is valid.

GEMARA: By the hand of a minor it would not be a valid Erub? Did not R. Huna say, that a minor may collect the Erub? This presents no difficulty. R. Huna's dictum refers to an Erub of courts (where only the meal is to be gathered in order to make common cause), but our Mishna refers to an Erub of limits (where a man must go and declare his intention of making that his resting-place for the Sabbath).

"One who does not acknowledge the legal necessity of an Erub." Who is meant thereby? Said R. Hisda, a Samaritan.

"If, however, he had commissioned another person," etc. Why! Perhaps the above messenger will not deliver it! As R. Hisda said elsewhere, that he should stand and see the messenger depart, so must he also do in this case. Still there is fear that the person commissioned to receive it from the messenger will not receive it? As R. Yechiel said elsewhere, that it is an established rule, that if a messenger has been intrusted with an errand, it is presumed that he will perform the errand and this must also be assumed in the case under consideration. Where did R. Hisda and R. Yechiel make these statements? Concern-

ing the following Boraitha, which teaches, that if a man sent his Erub through a trained elephant or a trained monkey and they deposited the Erub, it is not valid, but if he had commissioned a person to receive it from them and deposit it, it *is* valid. The same question arose here which led to the statements of R. Hisda and R. Yechiel as stated above.

R. Na'hman said: The established rule, that a messenger will perform his errand, holds good where rabbinical laws are concerned, but not where biblical commandments are to be executed.

R. Shesheth, however, said: There is no difference. This rule holds good even where biblical commandments are concerned.

"*If a man put his Erub in a tree,*" etc. R. Hyya bar Abba, R. Assi and Rabha bar Nathan sat together, and R. Na'hman sat near them. They were deliberating upon the question of where the tree spoken of in the Mishna was situated. Should we assume that it was standing in private ground, what difference does it make whether the Erub was put lower or higher; for private ground reaches even to the sky? Should we assume, that the tree was in public ground, where was the man's intention to rest on this tree; if on the top, why was the Erub which was placed above ten spans not valid? The man and the Erub would be in one place? We must say, that the man's intention was to rest at the foot of the tree (and if the Erub was placed above ten spans from the ground it is not valid, because at that height the tree becomes private ground by virtue of its being over four spans wide, while the foot of the tree is still public ground and consequently, the man would have to carry his food from private into public ground on Sabbath and that is prohibited). Still, will he not make use of a tree on the Sabbath and that is also prohibited? We must therefore assume, that the Mishna means that the tree was standing in public ground and it is according to Rabbi, who holds, that all rabbinical ordinances enacted on account of the Sabbath-rest (Shvuth) have no significance during twilight (before or after the Sabbath). Said R. Na'hman: "I thank ye, for so also did Samuel say." And they rejoined: "Was it so difficult for you to understand the Mishna, that you thank us for our opinion. [Did they not themselves argue and discuss the matter? Nay; they spoke thus to R. Na'hman.] Would you insert our opinion in the Gemara explaining this Mishna?" He answered: "Yea."

Rabha said: All this refers to a tree, which was standing out-

side of the addition (of $70\frac{1}{2}$ ells square) to a town; but if the tree was standing inside of the addition to the town, it makes no difference where the Erub was placed on it, even at a height of over ten spans, because the atmosphere of a town pervades all the trees and it makes no difference where the man takes his rest.

Where is the opinion of Rabbi and the sages to be found concerning the twilight as mentioned above? In the following Boraitha: If a man placed his Erub on a tree ten spans above the ground, the Erub is not valid. If placed lower than ten spans it is valid, but must not be taken down; if it was placed within three spans from the ground it is valid and may also be taken down. If the Erub, however, was placed in a basket and then hung on the tree even at a height of over ten spans it is valid; such is the dictum of Rabbi; the sages however say, that where an Erub must not be taken down, it is also not valid. (Hence the difference of opinion between Rabbi and the sages.) Concerning what part do they differ? Shall we say, that they differ concerning the last part (*i.e.*, where the Erub was placed in a basket and hung up on a tree at a height of over ten spans, and the sages say therefore, that such an Erub is invalid because the tree will have to be used on Sabbath and that is prohibited), can we say, that incidental use of the tree is also prohibited? (We know that is not so.) Shall we say, that they differ concerning the first part (*i.e.*, where the Erub was placed at a height of over ten spans and must not be taken down), we must first see what kind of a tree is under consideration. If it be a tree of less than four spans' width, it is a free place (not subject to jurisdiction), then why should the Erub not be taken down? If it be a tree that *was* four spans wide, it is regarded as private ground, then of what benefit is the basket which contains the Erub (it must also be taken down from private into public ground); said R. Jeremiah: "With a basket it is different. It need not be taken down at all, but can be bent over and the Erub may be removed." (Although the tree is private ground, when the basket is bent over so that it is below ten spans it is no longer in private ground.)

R. Papa sat in the college and repeated the above Halakha. Rabh bar Shva raised an objection: "We have learned in a following Mishna: "But how must this be done? One carries out the Erub, where he means to deposit it on the eve of the first day of rest and remains with it until dusk, when he carries it back with him." If thou sayest then, that it is sufficient if he

hangs up a basket on the tree, because he can bend over the basket and bring it lower than ten spans, why should the Mishna quoted order, that the man must carry out the Erub, etc., and remain with it until dusk; it may just as well say, that as he *can* remain until dusk and carry it back, that it is sufficient, if he deposits it and carries it back with him at once.

Said R. Zera: This is only a precautionary measure for a case where a festival follows a Sabbath. (If it were said, that the man need not go out and deposit his Erub, wait until dusk and carry it back, then go out again on the next day and wait until dusk and eat the Erub, but that he may leave it there because he could have done as the Mishna states and the capability of performing an act is equivalent to its performance,—it would be wrong; for the day being Sabbath he would not have been permitted to carry it out again. Hence the precautionary measure was made to apply to all similar cases.)

“If he had put it into a pit,” etc. Where is the pit supposed to be situated? If in private ground it is self-evident? For in the same manner as private ground has no limit as to height it also has none as to depth. If in public ground, the question arises, where the man intended to take his Sabbath-rest? If he intended to take it outside of the pit, he would be in one place and his Erub in another, and if he intended to take his rest inside of the pit, it is self-evident that he may deposit his Erub therein. We must say then, that the pit was situated in unclaimed ground (in a valley) where he intended to rest. The pit however being over ten spans deep is private ground, and as for carrying from private into unclaimed ground the opinion of Rabbi again prevails, that such acts as are prohibited on the Sabbath are not prohibited for twilight on account of the Sabbath-rest.

MISHNA: If the man should put the Erub on top of a cane or pole, that does not actually grow out of the ground, but is merely stuck in the ground, even though it be a hundred ells high, it is a valid Erub.

If one put it into a cupboard which he locked and then lost the key, the Erub is nevertheless valid. R. Eliezer said: If he does not know where the key is, the Erub is not valid.

GEMARA: R. Ada bar Massne propounded a contradictory question to Rabha: If the man should put his Erub on top of a cane, that does not actually grow out of the ground, it is valid; but if the cane were a growing one, the Erub would not be valid, because the tree would be handled thereby and that is not per-

mitted; then this would be in accordance with the opinion of the sages; while the previous Mishnaoth were according to Rabbi's opinion? This was already asked by Rami bar Hama of R. Hisda and the latter answered, that the previous two Mishnaoth were in accordance with Rabbi's opinion, while this Mishna is in accordance with the opinion of the sages.

Rabhina, however, said, that this Mishna is also in accordance with Rabbi's opinion, but here the precautionary measure is enacted, lest the man might break down the cane if it grew out of the ground, while a tree is too stout to be broken down, and in this case Rabbi concurs with the sages.

One Friday, a military garrison came to Neherdai and occupied the city, so that there was no room for the college of R. Na'hman. Said R. Na'hman to his disciples: "Go out into the field and incline the growing bushes towards each other, so that we have room enough to study in to-morrow." So Rami bar Hama, according to another version, Uqba bar Ada objected: "Did we not learn in this Mishna, that an Erub must not be put on growing stalks or cane?" Answered R. Na'hman: The Mishna refers to brittle (withered) cane, but as for healthy (moist) bushes it is not prohibited.

"*If one put it into a cupboard, etc., and lost the key.*" Why should the Erub be valid? The man is in one place and the Erub in another? He cannot even obtain it without a key. Rabh and Samuel both said, that the Erub is valid only when the cupboard is not firmly immured but is loosely built, so that the bricks may be removed and the Erub taken out, and that the Mishna is according to R. Meir's opinion, who holds, that this may be done on a festival to commence with and that the Mishna refers to a festival only, and not on a Sabbath. If this be so, how will the following clause of the Mishna be explained: "R. Eliezer said: If the key be lost in the city, the Erub is valid, but if lost in the field, it is not valid." If the Mishna refers to a festival, what difference does it make where the key was lost. Carrying is not prohibited on a festival? The Mishna is not complete and should read thus: If one put it into a cupboard, which he locked and then lost the key, the Erub is nevertheless valid, providing it was a festival. On Sabbath, however, it is not valid. If the key was subsequently found, whether in the city or in the field, the Erub is nevertheless not valid. R. Eliezer, however, said: If it was found in the city, the Erub is valid, because he holds to R. Simeon's opinion, who said, that

all the courts and wood-sheds in the city are as one ground and the key could be brought through them; but if found in the field it could not be carried.

Rabba and R. Joseph both said: "Our Mishna treats of a wooden cupboard and the Tana who holds that if the key was lost, the Erub was valid, considers the cupboard the same as a vessel which may be taken apart on the Sabbath and the Erub taken out, while R. Eliezer considers the cupboard the same as a tent which must not be taken apart on the Sabbath." How can they differ as to its being a vessel or a tent? If it was large all agree, that it is a tent, and if it was small all agree, that it is a vessel? Therefore Abayi and Rabha both say, that the Mishna treats of a case where the key was tied to the lock by a string, which could not be undone by hand. The first Tana holds according to R. Jose, that all vessels may be handled on the Sabbath for any purposes whatever (hence a knife used for cutting bread may be used to cut the string), whereas R. Eliezer holds according to the opinion of R. Nehemiah, who decrees, that all vessels may be handled on Sabbath only for the purposes for which they are intended.

MISHNA: Should the Erub roll (or be moved) out of the limit of the Sabbath distance, should a heap of mould fall on it, or should it be burned, or if the heave-offering (used for the Erub) became unclean, and any or all of this take place while it is yet day (*i.e.*, before the Sabbath set in) the Erub is not valid. If it take place, however, after dusk (when it is already Sabbath) the Erub is valid. If the time when it took place is doubtful, R. Meir and R. Jehudah both say: This is (like driving) an ass and (leading) a camel (meaning, that a man is hemmed in on all sides). R. Jose and R. Simeon say: A doubtful Erub is valid? R. Jose further said: Abtolymus attested upon the authority of five elders, that a doubtful Erub is valid.

GEMARA: Said Rabha: (If the Erub rolled outside of the limit of the Sabbath distance) for a distance of over four ells it is not valid; but if it rolled for less than four ells, the man who deposited the Erub is allowed four ells to move in, outside of the limits, consequently the Erub is valid.

"*Should a heap of mould fall on it,*" etc. At a casual glance it was assumed, that the Erub could have been extracted from under the heap of mould by hand, and accordingly the Mishna was in conformity with the opinion of Rabbi, that at twilight such acts as are prohibited by rabbinical law on account of the

Sabbath-rest may be performed; subsequently, however, the conclusion was arrived at, that the Mishna *is* in accordance with Rabbi's opinion, and that the Erub in this instance could not be extracted by hand but by means of a hoe.

It was necessary to insert both clauses (concerning the rolling of the Erub and its being buried beneath a heap of mould) in the Mishna and for the reason; that, were the first clause only inserted, one might say: "If the Erub rolled out beyond the limits, it was no more in its place and hence it is invalid; but if it was simply buried beneath a heap of mould it is still in its proper place and why should it not be valid?" If the latter clause only had been inserted, one might say: "In this case the Erub was buried and could not be seen, hence it is invalid, but if it merely rolled out and can be seen, the same wind might bring it back, why should it not be valid?" For this reason it was necessary to mention both cases.

"*Or should it be burned, or if the heave-offering (used as an Erub) became unclean,*" etc. The ordinance referring to an Erub which was burned up is taught in order to show the firmness of R. Jose, who declares, that (if a doubt existed whether the Erub was burned before or after dusk) although the Erub is no longer in existence, it is still valid, and the ordinance referring to heave-offering which became unclean was taught to show the firmness of R. Meir, who maintains that although the heave-offering was still there and only a doubt existed as to whether it became unclean before or after dusk, the Erub is nevertheless invalid. Is it possible, that R. Meir holds a doubtful case based upon rabbinical law to necessitate the more rigorous decision? R. Meir holds, that the law pertaining to Sabbath-limits is biblical. Does R. Meir indeed hold thus? Have we not learned in a Mishna further on (Chapter V., Mishna 3), that R. Meir maintains, when measurements are made to determine the Sabbath-limit and mountains are encountered that it is permitted to cut straight through the mountains (in an imaginary sense or figuratively speaking), and such subterfuges are certainly not allowed where biblical laws are concerned?

The latter opinion while credited to R. Meir is not in reality his own, but the opinion of his teacher, while the former is his own conviction and the proof is, that the Mishna quoted states distinctly: R. Dostai ben Janai said: I have *upon the authority* of R. Meir, etc.

We have learned in a Boraitha: How should the dictum of

R. Jose to the effect, that "a doubtful Erub is valid" be explained? Thus: If an Erub was made with heave-offering concerning which there was a doubt whether it became unclean while it was yet day, or after dusk, or with fruit concerning which there was a doubt whether the tithes had been acquitted while it was yet day or after dusk, it constitutes a doubtful Erub, which is nevertheless valid; if, however, the Erub was effected with heave-offering concerning which there was a doubt whether it was clean or unclean to commence with, or with fruit concerning which there was a doubt whether tithes had been acquitted at all, it does not constitute a doubtful Erub, which *is* valid.

Let us see! Why is it said, that heave-offering, concerning which there was a doubt whether it became unclean before or after dusk, would constitute a doubtful Erub which was nevertheless valid, because the heave-offering is presumed to be in its original condition and that was certainly clean, why should not the same case apply to the fruit concerning which there was a doubt, whether tithes had been acquitted thereof or not, let the fruit also be presumed to be in its original condition and that is unseparated (of which tithes had *not* been acquitted)? Do not say, therefore, that the fruit was doubtful as to its having been separated but say: there was a doubt whether it had not subsequently been mixed with other (unseparated) fruit before or after dusk.

R. Samuel bar R. Itz'hak asked of R. Huna: If there were two loaves of bread before a man, one of which was clean and the other unclean and he said: "Make an Erub for me with the clean loaf wherever it may be"; but did not know which was which. [If both loaves which were heave-offerings, were used in making the Erub; for if they were ordinary and even (ritually) unclean they may be eaten by an ordinary Israelite], what is the law according to the diverse opinions? According to R. Meir, who pronounced a doubtful Erub invalid in a case where the entire Erub would have been unclean, it may be said, that in this case, where one of the loaves was positively clean, he may hold the Erub to be valid; or according to R. Jose, who pronounces a doubtful Erub valid in a case where if it *is* clean, he can distinguish it, it may be said, that in this case the Erub would in his opinion be invalid because although part of it is clean, he cannot distinguish it from the unclean?

R. Huna answered: According to both R. Meir and R. Jose, when the Erub is deposited (while it is yet day) it must be

fit to eat and in this case it could not be eaten to commence with, because, the clean could not be distinguished from the unclean, how then could an Erub be made therewith?

Rabha asked of R. Na'hman: If a man say: "This loaf of bread is to-day ordinary but to-morrow it shall be consecrated. Nevertheless make me an Erub therewith." What is the law? (Does it become consecrated at twilight and, as it is not permitted to make an Erub with consecrated things, it is not valid as an Erub, or does it become consecrated after twilight?) "The Erub is valid," was the answer. What is the law, however, if the man say: "To-day this loaf is consecrated, but to-morrow it shall be ordinary (*i.e.*, it shall be redeemed by a sum of money representing its value); nevertheless make me an Erub therewith?" "The Erub is not valid," was the answer. What is the difference between the two cases? Said R. Na'hman to Rabha: "If thou wilt measure a whole Kur of salt and present me with it,* I shall tell thee the answer: If the loaf of bread was ordinary when it was deposited as an Erub, the fact, that at twilight it becomes doubtful, whether it is consecrated or not, does not destroy its validity as a legal Erub, but if the loaf of bread was deposited while yet consecrated, the doubt existing at twilight whether it had already become ordinary does not nullify its sanctity as a consecrated object, and as a consecrated object cannot be deposited as an Erub, the validity of the Erub is impaired."

MISHNA: A man may make his Erub conditional and say: If foes come from the east, my Erub shall be valid for the west; should they come from the west, my Erub shall be good for the east; should they come from both sides, I am at liberty to go in what direction I please; should they not come from either side, I am like the rest of my townsmen. Should a sage come from the east, my Erub shall be valid for the east; should one come from the west, my Erub shall be valid for the west; should one come from each side, I am at liberty to go in which direction I please; should none come from either side, I am like the rest of my townsmen. R. Jehudah said: If one of the two sages (should they come at the same time) had been the man's teacher, he must go to meet his teacher; if both had been his teachers, he may go in which direction he pleases.

* This expression is generally used in a joking sense when the question is a difficult one to answer.

GEMARA: "*R. Jehudah said: 'If one of the two sages,'*" etc. What is the reason of the dissension of the sages from R. Jehudah's opinion? Because it frequently happens, that a man has a greater fondness for his colleague than for his teacher.

Rabh said: This part of the Mishna (wherein R. Jehudah states, that "if both sages had been the man's teachers, he may go in whichever direction he pleases") does not hold good, because Ayo taught: R. Jehudah said: "A man cannot make an object conditional upon two contingencies and in this case of the Erub he may make it conditional upon the arrival of a sage from either the west or the east, but not upon sages arriving from opposite directions." Why can he not make it conditional upon the arrival of sages from opposite directions? Because R. Jehudah does not admit of the theory of premeditated choice (*i.e.*, he does not consent to a man deciding upon a certain thing on one day and declaring that it had been his intention to decide in that manner since the day before), hence if two sages come from opposite directions, the man cannot say, that he had intended to meet the sage towards whom he went at the time he deposited the Erub, *i.e.*, on the day before.

If R. Jehudah does not hold to the theory of premeditated choice why does he consent to a man making an Erub and saying: "If the sage come from the east, my Erub shall be good for the east, and if from the west, for the west." His choice is certainly dependent upon two conditions; first the condition, that the sage will come from either one of two directions, and second, that he may not come at all, in which case his Erub is of no account. If the sage *arrived* on the morrow, and the man will go forward to meet him, he (the man) will be compelled to claim a premeditated choice saying, that he had intended when depositing his Erub to go in that direction and that would be incorrect; for it may be, that at the time the Erub was made, the sage *himself* did not know from which direction he would come.

Said R. Johanan: The statement of Ayo in the name of R. Jehudah, that a man may make his Erub conditional upon the arrival of a sage from the east or west holds good, only if the sage had already started on his way and was no more than four thousand ells away from the man [*i.e.*, if he or his Erub was at the time when the man deposited *his* Erub already within the legal limit established through the deposition of his (the sage's) own Erub]. Hence it was not a premeditated choice on the

part of the man dependent upon the two conditions cited, for the sage was already on his way and his coming from a certain direction was an accomplished fact.

Why does Rabh say, that the Mishna does not hold good because of Ayo's statement? Let him say on the contrary, that Ayo's statement does not hold good, because the Mishna opposes it? Nay; it would not be proper; for we have learned elsewhere, that R. Jehudah does not hold to the theory of premeditated choice. Ula, however, declares, that Ayo's statement should be discountenanced on account of the Mishna (and as for the report, that R. Jehudah discards the theory of premeditated choice, Ula declares, that on the contrary, he holds it to be good).

Said Rabha to R. Na'hman: Who is the Tana, who holds, that the sages also discountenance the theory of premeditated choice? For we have learned as follows: If one man said to five others: "I will make an Erub for any one of you whom I may choose, and if I desire, he shall be permitted to go within its limits, and if not, he must not do so." If he made his decision, while it was yet day (before the Sabbath set in) his Erub is valid; but if he made his decision after dark, his Erub is not valid, (because it was not known at twilight which man he had chosen). R. Na'hman was silent and did not answer.

Should he have said, that this was according to the school of Ayo? He had not heard of Ayo's decree. Said R. Joseph: Wouldst thou ignore the other Tanaim? There are other Tanaim who dispute the above decision, as we have learned: If a man said: "I will make an Erub for all the Sabbaths of the ensuing year. If I then choose to go, I shall do so, and if not, I shall not." If he made his decision while it was yet day on the day preceding Sabbath, he may go, but if he made his decision after dusk, R. Simeon says, his Erub is still valid, and the sages say, it is not. (Hence there are sages who do not hold to the theory of premeditated choice.)

Have we not heard elsewhere, that R. Simeon does not hold to the theory of premeditated choice? This would be a contradiction made by R. Simeon to himself? Therefore learn to the contrary: (R. Simeon says, the Erub is not valid, and the sages say it is.) Why this question? Can it not be, that R. Simeon does not hold the theory of premeditated choice to be good where biblical laws are concerned but does hold the theory good for rabbinical laws? R. Joseph maintains, that one who admits

of the theory of premeditated choice does so for both biblical and rabbinical laws, and one who discountenances the theory does so for *both* kinds of laws.

MISHNA: R. Eliezer said: When a festival precedes or succeeds a Sabbath (by one day), a man should prepare two Erubin and say: My first Erub is to be valid for the east and my second for the west; or my first for the west and the second for the east. My Erub is valid for the first day and the second day I am like the rest of my townsmen, or my Erub is good for the second day and the first day I am like my townsmen. The sages however hold, that one may prepare his Erub for one direction only; otherwise it is not valid at all; also that he must prepare his Erub for both days, or it is not valid at all. But how must this be done? One carries out the Erub to the place, where he means to deposit it on the eve of the first day of rest and remains with it until dusk, when he carries it back with him. He then brings the Erub out again on the second day, remains with it till dark and then eats it and goes away. It is obvious, that in this manner he gains his walk beyond the Sabbatical limit and he gains by eating his Erub. Should his Erub have been eaten on the first day, it is a legal Erub for the first day only; but not for the second day. R. Eliezer said to them: "Thus ye acknowledge to me that they are two distinct holidays (*i.e.*, that the sanctification of one day is not equal to that of the other)."

GEMARA: What do the sages mean to tell us: If a man prepares his Erub for one direction, it is good for both days and if he prepares it for both days it is good for one direction? What need is there of this repetition, is it not one and the same thing? Nay; the sages mean to say to R. Eliezer: "Wilt thou not acknowledge, that it is not permitted to make two Erubin for one day, one of which shall be good for the South for one half of the day and the other be good for the North for the other half of the day?" and he answered: "Yea." "Then," rejoined the sages, "in the same manner as *this* is not permitted, it is also not allowed to make Erubin good for both days, which should in addition be also good on one day for the east and on the other for the west." [What answer could R. Eliezer make to this? He might say, that in the case of the two Erubin for one day, the sanctification of that one day continues throughout the entire time of the validity of the Erub, whereas in the case of the Erubin for both days, the sanctification of the one day (Sabbath) is not the same as that of the other day (the festival);

therefore a separate Erub may be made for each sanctification in a different direction.] Said R. Eliezer to the sages again: "Let us suppose now, that a man did not make an Erub, but on the eve of the first day went to the place, where he should have made it, personally and declared that he would take his Sabbath-rest there. Would this hold good also for the second day? Nay, he would have to return on the following day and again declare his intention of resting there the next day, and then it would be lawful? The same theory applies to an Erub. If he deposited it on the eve of the first day, and it had been eaten when deposited, he would have to make another Erub for the second day?" and they answered, "Yea." "Now, will ye not acknowledge that the two days have each a separate degree of sanctification?"

[What reply can the sages make to this? They may declare that the fact of there being a distinct degree of sanctification for each day is rather doubtful to them and for that reason they desire to enforce the more rigorous interpretation of the ordinance both ways, namely, that an Erub must not be made for each of the two directions, lest there be but one degree of sanctification for both days and that one Erub cannot serve for both days, lest there be a different degree of sanctification for each day.]

Again the sages said to R. Eliezer: "How is it, if no Erub at all was made on the eve of the first day? Thou wilt acknowledge that a man cannot go and make an Erub on the eve of the second day?" and he answered, "Yea." "Then," rejoined the sages, "thou thereby dost admit, that there is but one degree of sanctification for both days." [What will R. Eliezer say to this? He will say, on the contrary, that there *are* two degrees of sanctification and just for that reason one must not make the Erub on the eve of the second day, because one must not prepare for a festival on the Sabbath or *vice versa*.]

The Rabbis taught: "If one made an Erub on the eve of the first day by means of his feet (*i.e.*, by standing at the place where he intends to rest) he must do so again on the eve of the second day. If he made an Erub (of victuals) on the eve of the first day and the Erub was consumed, it does not hold good for the second day. Such is the dictum of Rabbi. R. Jehudah, however, said: "This is like driving an ass and leading a camel" (*i.e.*, R. Jehudah means to say this: If the two days have but one degree of sanctification and the Erub was made for both days,

the maker loses the two thousand ells in the opposite direction from that towards which his Erub was made, and merely gains two thousand ells in the one direction towards which his Erub was made. If the two days have different degrees of sanctification and hence the Erub is valid only for one day, the maker of the Erub should on the second day be on a par with the rest of his townsmen, but in reality he only has two thousand ells on the way back to the town and no more). R. Simeon ben Gamaliel and R. Ishmael the son of R. Johanan ben Berokah, however, both say, that if a man made an Erub with his feet on the eve of the first day it suffices for the second day and if he made an Erub (of victuals) on the eve of the first day and it was consumed, he is exempt from making it on the eve of the second day. Said Rabh: "The Halakha prevails according to the opinion of the four old sages and in conformity with R. Eliezer, who says, that the two days have different degrees of sanctification; and the four old sages are: R. Simeon ben Gamaliel, R. Ishmael the son of R. Johanan ben Berokah, R. Elazar ben R. Simeon and R. Jose ben R. Jehudah. The last of these is generally quoted by Rabbi anonymously wherever his opinion seems to be justifiable and according to another version, one of the four sages is R. Elazar ben Samua instead of R. Jose ben R. Jehudah. Rabh's information on this point was derived from a tradition, which was to the effect, that those four sages held in accordance with R. Eliezer concerning the two degrees of sanctification for both days.

R. Jehudah said: If one made an Erub on the eve of the first day with his feet, he must do likewise on the eve of the second day, and if he made an Erub on the eve of the first day with bread, he must make it in like manner on the eve of the second day. If he made an Erub on the eve of the first day with bread which was lost, he may make it on the eve of the second day with his feet, but if he made it with his feet in the first instance he must not make it with bread in the second instance, because making an Erub with bread to commence with on Sabbath or on a festival would be an infraction of the law prohibiting the preparing on a Sabbath for a festival or *vice versa*. If a man made an Erub with bread on the eve of the first day, he must make it with bread on the eve of the second day also and, according to Samuel, he should use the same bread in both cases (for if he uses new bread in the second instance it will be a case of preparing on a Sabbath for a festival). Said R. Ashi: We can adduce

this also from our Mishna, which teaches: "But how must this be done? One carries out the Erub to the place, where he means to deposit it on the eve of the first day of rest and remains with it until dusk, when he carries it back with him; he then brings the Erub out again on the second day, remains with it until dusk, then eats it and goes away." (The fact that it says, "he carries it back with him and then brings it out again," is proof that it must be the same Erub.) The sages that differ with Samuel and assert that new bread may be used on the eve of the second day maintain, that the Mishna merely administers good advice and tells us, that we need not trouble ourselves to make a new Erub in case the first one is lost.

MISHNA: R. Jehudah said: "If a man apprehend that the new year will be celebrated two days, he must prepare two Erubin." He then says: My Erub of the first day shall be valid for the east and of the second day for the west; or of the first day for the west and of the second day for the east. My Erub shall be valid for the first day, and on the second I am like my townsmen; or my Erub shall be valid for the second day and on the first I am like my townsmen. The sages however did not coincide with him.

R. Jehudah further said: "A man may conditionally separate (the heave-offering from) a basket of fruit on the first day of the new year and eat it on the second day; likewise an egg which is laid on the first day of the festival may be eaten on the second." The sages however do not coincide with him.

R. Dosa ben Harchinas said: He who stands before the pulpit to pray on the first day of the new year must say: Strengthen us, O Lord our God, on this day of the new moon, whether to-day or to-morrow (be the true day). And on the morrow he says the same prayer with the variation "whether this day or yesterday be the true one." The sages, however, do not agree with him.

GEMARA: Who are the sages, that do not coincide with R. Jehudah? Said Rabh: That is R. Jose, as we have learned in a Boraitha: The sages agree with R. Eliezer that "if a man apprehend that the new year will be celebrated two days,* he

* The Israelites living in exile were dependent for their information concerning the date of the New Year entirely upon the messengers sent out by the high court in Palestine, which in turn fixed the date upon the testimony of witnesses who would announce when the new moon appeared (as explained in Tract Rosh Hashana). Thus the exiled people did not know whether the 30th or 31st day from the first day of

should prepare two Erubin. He then says: My Erub of the first day shall be valid for the east and of the second day for the west; or of the first day for the west and of the second day for the east. My Erub shall be valid for the first day and on the second I am like my townsmen; or my Erub shall be valid for the second day and on the first I am like my townsmen." R. Jose, however, does not consent to this. (He holds that if the witnesses come before the high court in the afternoon of the first day that had been kept holy and declare that the next day is New Year, both days are nevertheless holy and are of one degree of sanctification.)

We have learned in a Boraitha: How does R. Jehudah explain his dictum, that "a man may conditionally separate (the heave-offering from) a basket of fruit on the first day of the New Year and eat it on the second?" Thus: If there were two baskets of unseparated fruit before a man on the first day of the New Year he may say: "If to-day is the ordinary day and to-morrow is the holy day, let the heave-offering separated from this basket of fruit also serve for the other, and if to-day is the holy day and to-morrow the ordinary, then I have said nothing." He then designates the fruit which he calls heave-offering and lets it remain. On the morrow again he may say: If to-day is an ordinary day, let the heave-offering of this basket also serve for the other, but if to-day be a holy day I have said nothing. He may then designate part of the fruit in the one basket and call it heave-offering and eat the remainder in both baskets. R. Jose however prohibits this not only for the two days of the new year but for the two days of every other festival, which is celebrated in exile.*

It happened that a stag was caught on the first day of a holiday (in exile) at the house of the Exilarch and on the second day it was slaughtered. R. Na'hman and R. Hisda partook of the stag, but R. Shesheth would not do so. Said R. Na'hman: "What shall we do with R. Shesheth who does not eat venison?" Rejoined R. Shesheth: "How can I eat this venison; for did not Issi teach in a Boraitha [or a Boraitha taught, that Issi said],

Elul would be proclaimed the first day of Tishri (the New Year), and both were kept holy in consequence. For this reason the Mishna cites the ordinances referring to such as apprehend that the New Year will last two days.

* In exile the Israelites celebrated two days each for the holidays of Passover, Tabernacles, and Pentecost, besides the New Year, and these are called the holidays in exile.

that R. Jose would not permit this to be done even during the two days of a holiday in exile ? ”

Once R. Shesheth met Rabba bar Samuel and asked him: “ Did master teach anything regarding the sanctification of the holidays ? ” Answered Rabba: “ Yea, I taught in a Boraitha, that R. Jose coincides with the sages, as far as the two days of a holiday in exile are concerned.” Rejoined R. Shesheth: “ If thou shouldst meet any of the Exilarch’s household, say nothing to them about this Boraitha.”

It once happened that herbs were brought to the city of Mehuzza on a festival. Rabha went out and noticed, that the herbs were somewhat withered. He permitted the herbs to be bought, saying: “ It is obvious, that these herbs were not gathered on this day, and the only objection that might be made to their being purchased can be, that they were brought from beyond the techoom (legal limits).” The law, however, ordains, that if things are brought for one Israelite from without the techoom, another Israelite may use them, and in this case, where the herbs were brought even for the Gentile inhabitants they can in so much greater a degree be used by Israelites. Subsequently, however, he observed, that herbs were brought in large quantities, so he prohibited the purchase of them on a festival.

The men whose occupation was to prepare baldachins for marriages once cut off branches of myrtle on the second day of a holiday in exile. The moment it became dark, Rabhina permitted the people to smell the myrtle. Said Rabha bar Tachlipha to Rabhina: Master should have prohibited this, for these people are ignorant (and if thou wilt permit this, they may ignore the second day of the festival entirely). R. Shmaya opposed this: “ Thou sayest, because they are ignorant, and even were they intelligent men, would it be allowed ? Is it not necessary to allow sufficient time after the Sabbath to expire until the branches can be cut off afresh ? ” They finally went and asked Rabha and he decided that it was necessary to allow sufficient time to expire until the branches could be cut anew.

“ *R. Dosa ben Harchinas said,* ” etc. Said Rabba: When we were in the college of R. Huna, a question was propounded by us as follows: “ Must the reference to the day of the new moon be added to the prayers recited on the day of the New Year ? ” Shall we assume, that because there are separate additional sacrifices for each, that the reference to the day of the new moon shall be

added to the prayers of the New Year, or because the New Year is mentioned in the prayer as the "day of Remembrance" such mention will suffice for both occasions? R. Huna answered us by quoting the Mishna: R. Dosa ben Harchinas said: He who stands before the pulpit to pray on the first day of the New Year must say: "Strengthen us, O Lord our God, on this day of the new moon, etc." Does not R. Dosa state this in order to demonstrate that the day of the new moon must be explicitly mentioned? Nay, he simply means to make the prayer conditional but not because special mention must be made of the day of the new moon. It seems to us, that such is truly the case, because further on the Boraitha states, that so did R. Dosa act on all the days of the new moon throughout the year; but the sages did not coincide with him.

Now, if it be said, that the prayer was made conditional it is correct, (because there was a doubt concerning the exact day at each recurring new moon) but if it be said, that the new moon must be mentioned in the prayer *especially*, why should the sages not agree with him?

An objection was made: When New Year falls on a Sabbath, Beth Shammai say, ten benedictions are to be recited during the prayer and Beth Hillel say "only nine." [The first three are benedictions of praise, the last three benedictions of thanks; the Sabbath benediction, and the three pertaining to New Year, viz., the one in which God is proclaimed King (Malkhioth), the one referring to God's remembrance of his creatures (Zikhronoth) and the one referring to the sounding of the cornet (Shophroth), but according to Beth Hillel the Sabbath benediction is included in those pertaining to the New Year, hence there are only nine.] Now if we say, that the benediction for the new moon must be especially mentioned in the Musaph (additional prayer) then according to Beth Shammai, there should be eleven benedictions in all.

Said R. Zera: "With the benediction of the new moon it is different; because if the new moon fall on a Sabbath no separate benediction is made, but it is included in the Sabbath benediction at the morning and evening prayer; the benediction of the new moon is also mentioned in the Musaph-prayer in conjunction with the new year benediction." Do Beth Shammai indeed maintain, that if the new moon fall on a Sabbath the benediction pertaining to it is included in that of Sabbath? Have we not learned, that if the new moon fall on Sabbath, Beth Shammai

hold, that eight benedictions must be recited in the prayer and Beth Hillel only seven? This question is not decided.

Rabba said: "When I was at the college of R. Huna the question arose, whether the benediction of the time* should be recited in the New Year and Day of Atonement prayers. Shall we say, that because these holy days only come from time to time, the benediction of time should be made, or, because the Bible does not classify them as festivals, no such benediction need be made? R. Huna could not answer the question but when I subsequently came to R. Jehudah's college, the latter said he made such a benediction even over a new pumpkin. I then said to him, that I did not question the right to pronounce this benediction over anything whatever, but I wished to know whether it was compulsory to do this on the New Year and the Day of Atonement. He then answered: Rabh and Samuel both said, that the benediction of time must be recited only for each of the three festivals."

An objection was made: It is written [Ecclesiastes xi. 2]: "Give a portion to seven, and also to eight." R. Eliezer said that by "seven" is meant the seven days of the creation and by "eight" is meant the eight days of the circumcision. R. Jehoshua said: "By 'seven' is meant the seven days of Pass-over, by 'eight' is meant the eight days of the feast of Tabernacles and by 'also' is meant Pentecost, New Year and the Day of Atonement." May we not assume, that by this is meant, that the benediction of time must be pronounced on all these festivals? Nay; this simply means to state, that benedictions should be recited but no special benedictions are specified. It seems to us, that this is the correct explanation; for the benediction of time is certainly not recited on every one of the days of the festivals but only the first day. This is not the question, because the benediction of time must be recited in the course of the festival; if not on the first day, on the second and so on. At any event this benediction must be made over a goblet (of wine)? Shall we assume, however, that the above is in support of the dictum of R. Na'hman, who holds that the benediction of time may be recited even in the market and without a goblet? This is not the question either; for if a man does not recite this bene-

* The full text of this benediction reads: "Blessed art Thou, Lord our God, King of the Universe, who hast allowed us to live and hast preserved us and hast allowed us to reach this time."

diction on one day, he may do so on the next when he might come across a goblet. This would be feasible where the three (main) festivals and New Year are concerned, but how would it be with the Day of Atonement? What should the man do? Should he pronounce the benediction over the goblet on the day preceding the Day of Atonement before dusk, he would then and there usher in the Day of Atonement, and as is well known, he must not eat or drink on that day. Should he pronounce the benediction and let the goblet stand until after the Day of Atonement? Have we not learned that one must drink the contents of the goblet immediately after pronouncing the benediction; otherwise he must not make the benediction at all? Should he pronounce the benediction and then give the goblet to a child? In that case, there would be fear, lest the child be accustomed to drinking on that day, and will continue to do so when grown and therefore the Halakha according to R. A'ha does not prevail. How, then, does the Halakha concerning the benediction of time on the New Year and the Day of Atonement prevail? The Rabbis sent the elder R. Yeimar to R. Hisda with instructions to observe how the latter proceeded on the eve of the New Year, and then to return and report what he had seen. When R. Hisda saw R. Yeimar (and upon questioning him as to his mission was told that he just called to see him) he said: If a wet piece of wood is lifted, it is obvious, that either the wood or its space is needed. (If thou camest thou certainly didst so with an object.) At about that time a goblet of wine was brought to R. Hisda and he pronounced the benediction of the day and also that of the time over it.

The Halakha prevails, that the benediction of time must be recited on the New Year and on the Day of Atonement and the Halakha also prevails that if a man forgot to recite it and was reminded of his negligence even in the market, he may recite it then and there.

Rabba said again: "When I was at the college of R. Huna, the question arose whether a young scholar, who fasted on the day preceding Sabbath must fast until night or in honor of the Sabbath break his fast earlier. R. Huna could not answer the question. I went to R. Jehudah and he could not answer this either." Said Rabba: "Let us see if we cannot decide this question ourselves from what we have learned in the following Boraitha: If the fast-day of the ninth of Abh fall on a Friday, bread may be brought to a man just before twilight of the size

of an egg, and he should eat it, in order that he may not enter upon the observance of the Sabbath while still in pain."

We have learned in a Boraitha: R. Jehudah said: It once happened that we were sitting before R. Aqiba on the fast of the ninth of Abh, which fell on a Friday, and just before dusk a soft-boiled egg was brought to him which he swallowed without even salting it, and not because he desired to eat it in that manner; but because he wished to show his disciples how the Halakha was carried out. R. Jose, however, said, that a man must fast through the entire day until dusk.

R. Jose said to the sages: "Will ye not admit, that if the ninth of Abh fall on the day after Sabbath, a man must stop eating while it is yet day on Sabbath?" and they answered "Yea." "What difference is there then between entering in upon the observance of the Sabbath while still in pain and finishing the Sabbath under the same conditions?" asked R. Jose. They answered: "In the first instance he fasted all day; but in this instance he had been eating and drinking all day and was surely not in pain." Finally, however, Ula said that the Halakha prevailed according to R. Jose.

Do we then act according to the opinion of R. Jose? Have we not learned, (concerning the Boraitha in Tract Taanith which teaches) that Rabbon Gamaliel said: "On a Friday the fast need not be completed," that upon the death of Rabbon Gamaliel, R. Jehoshua came and sought to nullify his decree and R. Johanan ben Nouri arose and declared: "We see that the body always follows the head. As long as Rabbon Gamaliel lived, we abided by his decisions. Now that he is dead, thou wouldst abolish them. Jehoshua! We will not listen to thee. The Halakha prevailed according to R. Gamaliel and so must it remain," and there was none to contradict R. Johanan ben Nouri. (Thus we see, that the decree of R. Gamaliel was accepted and not that of R. Jose.) (This is no question!) In the generation of R. Gamaliel his decree was followed and in the generation of R. Jose, R. Jose's opinion prevailed.

And did they really act in accordance with R. Gamaliel's opinion during his generation? Have we not learned that R. Elazar ben Zadoc (who was certainly of R. Gamaliel's day) said: I am a descendant of Sanab of the tribe of Benjamin and it once happened that the ninth of Abh fell on a Sabbath, so we postponed it until the following day and we did not complete the fast because it was our holiday. Thus we see, that the fast was not

completed because the tenth of Abh was a holiday and besides the fast-day was a postponed one. Had the ninth of Abh however fallen on a week-day, which for them would have been the eve of a festival, they would have completed the fast nevertheless and this is not in conformity with the decree of R. Gamaliel ? Said Rabbina : How can ye compare that festival to our festivals. Their festival was not biblical and on a festival which is not biblical one may fast for three or four hours if he chooses. On a biblical festival, however, it is not allowed to complete the fast.

R. Joseph said : " I did not hear of this Halakha." Said Abayi : Thou didst relate this to us thyself, in reference to the Boraitha, that a fast-day must not be ordered on the days of the first of the month. (The occasion when R. Joseph related this is mentioned in Tract Taanith.) Mar Zutra related in the name of R. Huna : The Halakha prevails, that one may complete the fast until dusk.

CHAPTER IV.

REGULATIONS CONCERNING THE OVERSTEPPING OF THE LEGAL LIMITS ON THE SABBATH, AND MEASUREMENTS OF THE SABBATH- DISTANCE.

MISHNA: If foes, or an evil spirit (a fit of insanity ?), caused one to go beyond the Sabbath limit, he after recovering his freedom must not move further than four ells; if the foes or the fit have carried him back within the limit, it is as if he had not gone beyond it. If they have carried him into another town, or into a pen or a fold for cattle, he according to Rabbon Gamaliel and R. Eliezer ben Azariah, may go about throughout the entire extent (of the town, pen or fold). R. Joshua and R. Aqiba maintain, that he must not move further than four ells. It once happened that these four sages came together from Parendisim (Brundisium or Brindisi) and their vessel was still at sea on the Sabbath. Rabbon Gamaliel and R. Eliezer ben Azariah walked about throughout the whole vessel; but R. Joshua and R. Aqiba did not move beyond four ells, as they wished to take upon themselves the rigid observance. Once these four sages were on board a vessel and did not enter the harbor until after dark (on the eve of Sabbath); so they inquired of Rabbon Gamaliel: "What are we to do as to descending from the vessel?" He answered them: Ye may descend; for I observed, that we had already entered the limits of the Sabbath-distance before dusk.

GEMARA: The Rabbis taught: "There are three things, which cause a man to commit deeds against his own will and against the will of his Creator, viz.: Idolatry, and evil spirits and stress of poverty." [For what purpose do the Rabbis tell us this? In order, that we may pray God to deliver us from those evils.]

Three persons will never come to Gehenna: He who suffers from extreme poverty, he who suffers with a diseased stomach and one who is oppressed by the government, and others add also the man who is afflicted with a bad wife. [Why was the

latter not mentioned in the first place? Because if one has a bad wife he should divorce her. Those however who declare that one who has a bad wife will not see Gehenna refer to those, who cannot afford to make a settlement upon their wives, or to those, who have children and cannot divorce their wives. For what purpose did the Rabbis tell us this? In order, that a man, who is subject to these misfortunes, should accept them with resignation.]

Three classes of human beings die in the possession of their power of speech, viz.: "A man who is suffering from a diseased stomach, a woman lying in and a man suffering with dropsy." [For what purpose are we taught to this effect? In order that shrouds may be prepared for such people.]

R. Na'hman said in the name of Samuel: If one went out beyond the Sabbath-limit and foes or an evil spirit brought him back within the limit, he must not move more than four ells from where he stands. Have we not learned this in our Mishna, which says, if foes or evil spirits carried him out and then brought him back it is as if he had never gone out at all; now is it not self-evident that if he went out of his own accord, he has only four ells of space in which to move? We might assume that the Mishna teaches us, if foes or evil spirits carried him out and he returned of his own accord, he has no more than four ells of space, but if he went out of his own accord and foes or evil spirits brought him back it would be as if he never went out at all, hence this teaching of Samuel.

Rabba was asked: "How is the law regarding one, who only had four ells to move in and was compelled to go out to obey nature's call?" and he answered: "Great is the honor of man, which supersedes even a biblical negative commandment."

The men of Neherdai said: If the man in question is prudent, he will enter the legal limits, perform his necessities and then go on.

Said R. Papa: "If fruit was carried beyond the legal limits and then even purposely brought back, the right to move it within the limits is not forfeited, because the fruit certainly did not go out beyond the limits of their own accord." R. Joseph bar Shmaya objected to this statement: "R. Nehemiah and R. Eliezer ben Jacob both said: The fruit which was carried out must not be handled when brought back unless this was done unintentionally, but if intentionally, they must not be handled?" Concerning this, there is a difference of opinion between Tanaim

in a Boraitha elsewhere (and R. Papa holds with the Tana, who permits it).

Said R. Na'hman in the name of Samuel: "If one went out and did not know the legal distance he could traverse, he may walk on for a distance of two thousand medium steps. This will constitute the lawful limit of the Sabbath." He said again quoting the same authority: If one took his Sabbath-rest in a valley, and Gentiles made an enclosure around the valley on the Sabbath, he may go two thousand ells, but he may throw things over the entire extent of the valley." R. Huna said: "He may go two thousand ells, but may carry only for a distance of four ells." The reason R. Huna prohibits throwing is in precaution, lest the man throw a thing outside of his two thousand ells and go after it.

Hyya bar Rabb, however, said: He may go two thousand ells and may carry things inside of that limit.

Said R. Na'hman to R. Huna: "Do not refute the dictum of Samuel; for we have learned in a Boraitha in support of Samuel."

R. Huna said: "If one measured the legal distance on a Sabbath and his measurement came to an end in one half of a court, he may avail himself of that half of the court only." Is this not self-evident? If he ended his measurement in one half of a court, why should he not avail himself of that half? We might assume, that if the one half is permitted he might be tempted to use the other half also, so we are told that this precaution is not necessary.

R. Na'hman said: "Huna agrees with me, that if in measuring the Sabbath-distance, the measurement end in the edge of a house, one may throw things into the house although he must not go into it himself, for the edge of the house is a fixed sign for him and will remind him, that he must not enter the house." Said R. Huna the son of R. Nathan: "The necessity for a precautionary measure to prevent the man from entering the house forms the subject of a discussion between Tanaim as follows: If foes or an evil spirit have carried the man into another town, or into a pen or a fold for cattle, he may, according to Rabbon Gamaliel and R. Elazar ben Azariah, go about throughout the entire extent (of such a place); R. Joshua and R. Aqiba, however, maintain, that he must not move further than four ells." Now, we must assume that those who permit the traversing of the entire extent of such places do so because

they do not fear that the man will traverse the whole valley where those places are situated, and those who only allow four ells, do so, because they regard this precautionary measure necessary. The same argument applies also to throwing, viz.: Those who have no fear that the man will traverse the entire valley, permit throwing throughout the pen or fold where the man is ensconced and those who allow him only four ells hold the same precautionary measure necessary where throwing and going after it is concerned.

Rabh said: "The Halakha prevails according to R. Gamaliel, where a pen, fold or ship is concerned," but Samuel said: "Only as far as a ship is concerned, but not as regards a pen or a fold." Thus we see that, as to a ship, all agree the Halakha prevails according to R. Gamaliel. What is the reason therefore? Said Rabba: "Because already before the Sabbath set in, the man is within the confines of the ship and although the ship was involuntarily carried out beyond the legal limits, the man had prepared his Sabbath-rest there." R. Zera said, however: "The reason is: that the man on board of the ship did not have four ells to move in, for the ship moves more than four ells every time it lurches forward, consequently he does not come under the law of four ells and may go throughout the entire extent of the ship." Rabba rejoined: "Thou referrest to a man who entered the ship while in motion. Concerning this, there is no difference between any of the Tana'im; even R. Aqiba permits the traversing of the entire ship, but they differ concerning a man who entered the ship while it was anchored."

Said R. Na'hman bar Itz'hak: From the Mishna itself we may infer, that there was no difference concerning a ship while in motion, because it states, that R. Joshua and R. Aqiba did not move beyond four ells, as they wished to take upon themselves the rigid observance. Were it not permitted at all, why should it say, that they wished to take upon themselves the rigid observance, they would have to obey the law?

Said R. A'ha the son of Rabha to R. Ashi: "The Halakha prevails according to R. Gamaliel where a ship is concerned." Then, there must be some who maintain that the Halakha does not prevail according to R. Gamaliel. Yea, there are, as we have learned in the following Boraitha: Hananiah the son of R. Jehoshua's brother said: "The whole day that R. Gamaliel and R. Aqiba were on board the ship they disputed concerning this Halakha, and yesterday my uncle affirmed the Halakha to the

effect, that as regards a ship at anchor it prevails according to R. Gamaliel and as for a pen or a fold it prevails according to R. Aqiba."

R. Hananiah propounded a question: Is there such a thing as a legal limit above ten spans from the ground or not? Concerning a pillar ten spans high and four spans wide one side of which was outside of the legal limit there is no question; for it is equal to the ground itself, but concerning a pillar, that was ten spans high and less than four spans wide or a man who went on board of a ship, does the law of legal limits apply or not? R. Hosea answered: "Come and hear! It once happened that four sages came together from Parendisim, etc. (see Mishna). If we say, that the law of legal limits applies to objects higher than ten spans, then it can be understood why R. Joshua and R. Aqiba took upon themselves the rigid observance (for concerning a ship in motion they do not disagree with the other sages), viz.: on account of the law of legal limits, but if this law does not apply to a ship, what rigid observance could they have taken upon themselves?" Rejoined R. Hananiah: "It may be that their ship was passing through shallow water, as related elsewhere by Rabha, and was not over ten spans from the ground."

Come and hear! The seven Halakhas related on a Sabbath morn in the presence of R. Hisda at Sura were related on the same evening in the presence of Rabha at Pumbaditha. Who could have decreed them? No one, but Elijah? Hence we see, that there is no such thing as legal limits above ten spans from the ground? Nay. It may be that those Halakhas were transmitted from one school to the other by Joseph the evil One, who did not observe the Sabbath.

Come and hear! If one say: I wish to be a Nazarite at the coming of the Messiah, he may drink wine on a Sabbath or on a festival but must not do so during the week-days. (For Messiah is liable to come at any time.) The Boraitha would be correct if we assume, that there *is* a legal limit above ten spans from the ground, because Messiah will then not come on the Sabbath or on a festival, but if there is no legal limit above ten spans, the man should not drink wine even on those days, because the Messiah might come. In that case it is different: for it is written [Malachi iii. 23]: "Behold, I send unto you Elijah the prophet before the coming of the day of the Lord, the great and the dreadful." Hence, if Elijah did not come on the day preceding

Sabbath, he may drink on the Sabbath. If this is so, then he may drink on a week-day also providing Elijah did not come on the preceding day. It might be assumed, however, that Elijah had already come and appeared before the high court and for that reason the man should not drink on any day, lest Elijah had already come, then this would apply also to the Sabbath? There is a tradition among Israelites that it is an assured fact, that Elijah will not come on the eve of a Sabbath or a festival. If that is so, why should the man not be permitted to drink wine on the eve of Sabbath? Because although Elijah will not come, the Messiah himself might come.

Thus it must be assumed, that if there *is* a legal limit above ten spans, a man who wishes to be a Nazarite on the day of the coming of the Messiah should be permitted to drink wine not only on Sabbath and the festivals but also on the day following Sabbath, because Elijah cannot come on the Sabbath? The sages who prohibited a man of that kind to drink wine on a week-day were themselves in doubt as to the validity of a legal limit above ten spans and only made it more rigid for the man on general principles.

"And did not enter the harbor until after dark," etc. It was taught in a Boraitha, that R. Gamaliel had a telescope, through which he could see for a distance of two thousand ells on land and on sea. If a man wishes to measure the depth of a valley, he should use one of those telescopes and if he should wish to measure a tree, he should observe his shadow, measure himself and his shadow and the shadow of the tree and calculate the proportion.

Nehemiah the son of R. Hanilai was engrossed in thinking about a Halakha and inadvertently stepped out beyond the legal limits. Said R. Hisda to R. Na'hman: "Thy disciple Nehemiah is in trouble," and R. Na'hman answered: "Make him a partition with men and let him come back."

R. Na'hman bar Itz'hak sat behind Rabha who sat in the presence of R. Na'hman. Said R. Na'hman bar Itz'hak to Rabha: "How was the case when R. Hisda asked R. Na'hman concerning Nehemiah who had overstepped the legal limits? Shall we say, that there were sufficient men on hand who had made an Erub at the limits and could therefore go out to Nehemiah then the question was merely whether the Halakha prevailed according to R. Gamaliel, who said, that where there is a partition, even if a man had not declared his intention to rest there on the Sab-

bath, he may avail himself of it and traverse its entire extent, or that there were not sufficient men who had made an Erub who could reach Nehemiah and the question presented itself, whether the Halakha prevailed according to R. Eliezer, that if a man went out two ells beyond the limits he may return, and Nehemiah did not go out further than that." Is this not self-evident? For if there were sufficient men to reach Nehemiah, why did R. Hisda ask R. Na'hman? Rabh had already decided that the Halakha mentioned prevailed according to R. Gamaliel and for R. Hisda Rabh was the final authority? The question was merely then, whether R. Hisda could make a partition with men who had not made an Erub, at the end of two ells beyond the limit, which according to R. Eliezer was free to everybody, so that Nehemiah who had gone further than two ells beyond the limit could avail himself of that partition and return.

R. Na'hman bar Itz'hak objected to the above, addressing Rabha: "Have we not learned in a Boraitha: 'If the wall of a booth fell in on a festival, one must not use a man, or an animal or vessels or put up a bed and cover it with a sheet in order to fill in the gap, because a temporary tent must not be erected on a festival to commence with and so much less on a Sabbath?' " Answered Rabha: Thou quotest this Boraitha but I can quote another which states: "A man can make a wall of his comrade, that he may be able to eat a meal or drink or sleep in a booth (the wall of which had fallen in); he may also put up a bed and cover it with a sheet to keep the sun off from a corpse or from food."

These two Boraithas are contradictory to each other? This presents no difficulty. One of them is according to the opinion of R. Eliezer and the other according to the opinion of the sages.

It happened once, that some baldachin-makers brought in water through a partition formed by men. Samuel punished them, saying: "This was done in an emergency where a man had overstepped the legal limits accidentally but ye do this 'purposely.' "

It once happened that flasks of wine were thrown out of Rabha's house on the road in the city of Mehuza. When Rabha came from his college, a number of men followed him as usual, and thus relying upon the partition formed by them, someone carried the flasks back into the house. Next Sabbath, the same thing happened, but Rabha would not permit the flasks to be carried back to the house, saying, that this time it might seem as

if it were done on purpose. In like manner straw was brought into the house of Levi, hay to the house of Zera, and water into the house of R. Shimi bar Hyya.

MISHNA: One who is authorized to go beyond the prescribed limit on important business pertaining to public or private safety and is told, that "it is already done," is at liberty to go two thousand ells in any direction. If he was still within the prescribed limit, it is as if he had not gone out at all, for all those who go forth on an errand of safety, are permitted to return to their homes on Sabbath.

GEMARA: What is meant by "if he was still within the prescribed limit"? Said Rabha: "This means to impart to us, that if he had not gone out beyond the limit, it was as if he had not left his house. Is this not self-evident? I would say, that if he had gone out of his house he forfeits his right to go two thousand ells in any direction he chooses, and we are told, that such is not the case." R. Shimi bar Hyya however said: "This means to state, that if the man had already gone beyond the usual limit but had not yet gone out of the additional limit allowed him by the sages for the errand, it is regarded as if he had not overstepped his own ordinary limit." Upon what point do they differ? Upon the permissibility of one end of a limit including another established limited distance adjoining it. The latter holds, that this point may be depended upon, while the former holds that it cannot.

"For all those who go forth on an errand of safety," etc. Even such as go beyond four thousand ells? In the first part of the Mishna it is stated that they only have two thousand ells in each direction? What question is this? This is a case of where a man goes forth on an errand of safety, and on such an errand it may be permitted to go beyond four thousand ells. If there is a question it can be made upon the following Mishna: "Those who go to assist others in case of conflagration, or of an attack of robbers, or of flood, or of rescuing people from the ruins of a falling building are considered for the time being as inhabitants of that place, and may go thence on the Sabbath, two thousand ells in every direction." Thus here it is stated, that they may go only two thousand ells and our Mishna does not limit the distance? Said R. Jehudah in the name of Rabh: Our Mishna means to imply, that they may even return to their homes with all their implements of war, as we have learned in a Boraitha: In former times, they used to deposit their arms in a house nearest

to the fortifications of the city. Once it happened, however, that the enemy was informed of the fact, that the Israelites had stored their arms, so they pursued them and in endeavoring to enter the house to gain possession of their arms, the Israelites trampled more of their own to death than were killed by the enemy. Since that time it was ordered to carry their arms back to their homes.

R. Na'hman bar Itz'hak however said: This presents no difficulty: If the Israelites are victorious, they have only two thousand ells in which they may go in every direction, but if they are defeated, they may escape as far as possible.

R. Jehudah said in the name of Rabh: If enemies besieged cities inhabited by Israelites, the latter must not go outside of the cities with their arms and must not violate the Sabbath, providing the enemies were there on account of money-matters; but if they were there for the purpose of slaughter, the Sabbath may be violated and arms be carried on Sabbath. If a city near the boundary of the country is besieged even on account of a trivial business matter such as straw or hay, arms may be carried and the Sabbath may be violated. Said R. Joseph bar Minyumi in the name of R. Na'hman: "Babylon is considered as a city near the boundary," and this dictum was explained to mean the city of Neherdai (which was surrounded on one side by Gentile neighbors and on the other side by Israelites).

MISHNA: If a man sit down by the road-side (towards dark on the eve of Sabbath), then gets up and observes, that he is near a town, he must not enter the town; for it had not been his intention to do this. Such is the dictum of R. Meir; but R. Jehudah permits him to enter. R. Jehudah said: "It once happened that R. Tarphon entered a town although it was not his intention to do so."

One who falls asleep on the eve of Sabbath while on the road and thus knows not that night has set in, is permitted (upon awaking) to go two thousand ells in any direction. Such is the decree of R. Johanan ben Nouri; but the sages hold, that he has only the right to move four ells. R. Eliezer said: "And he himself forms the centre of the four ells." R. Jehudah however said: He can go four ells in whichever direction he pleases. Still R. Jehudah admitted, that if the man had made his choice (which direction to take) he must not afterwards (change his mind and) go in another direction. Should there be two persons so situated (*i.e.*, form the centre of the four ells they are allowed to

move in), and part of the four ells permitted to one is within the limits of the other, they may meet and take their meals together in the centre of their joint space, provided that neither exceed his own limits by going into those of his neighbor. If there are three persons so situated and part of the four ells occupied by the middle one forms part of the space belonging to each of the other two, the one situated in the middle is at liberty to meet each of the others, or each of the others may meet him; but the two on each side of him must not meet each other. Said R. Simeon: What can this be compared to? Three courts opening into each other and also opening into public ground. If the two outer courts have combined in an Erub with the middle one, one is at liberty to carry things between the middle court and each of the outer ones, but between the two outer courts one must not carry or convey anything.

GEMARA: We have learned in a Boraitha: R. Jehudah said: It once happened that R. Tarphon while on the road was overtaken by dusk on the eve of Sabbath and stayed outside of the town over night. In the morning the cattle-herders met him and said: "Rabbi, the town is not far distant. Enter." So he entered the town, went into the college and lectured all day. Said R. Aqiba to R. Jehudah: Wouldst thou cite this as an example? Perhaps it had been the intention of R. Tarphon to enter the town previously (*i.e.*, he was within two thousand ells of it) or the college was included with the legal limits allowed R. Tarphon.

"*Such is the decree of R. Johanan ben Nouri.*" Rabba propounded a question: What is the intent of R. Johanan's decree? Does he hold that things having no particular owner, if situated at a certain place on the Sabbath, acquire the right to their resting-place (*i.e.*, may be carried for a distance of two thousand ells in any direction)? And the Mishna should have commenced by citing an instance of this kind. Why does it give the instance of a man who had fallen asleep, whom the sages consider the same as a thing having no particular owner? In order to show the firmness of the sages, who, though agreeing that the man when awake, is entitled to two thousand ells in each direction, whence we might assume that he is entitled to the same privilege when asleep, we are told that such is not the case; or, in order to show that R. Johanan ben Nouri does not hold, that a thing having no particular owner acquires the right to be carried for a distance of two thousand ells in every direction, but

that a man when *asleep* is entitled to this privilege, merely because he is entitled to it when awake.

Said R. Joseph: "Come and hear: We have learned that if rain had fallen on the eve of a festival, the rain-water acquires the right of (being carried) two thousand ells in every direction; but if rain had fallen *on* a biblical festival, the rain-water has the same right (of being carried for the same distance) as the inhabitants of the place where it had fallen (have the right of walking)." Now, if we say, that R. Johanan holds, that a thing having no particular owner, if situated at a certain place on Sabbath, acquires the right of (being carried) two thousand ells in every direction, then the Boraitha is in conformity with his opinion; but if we say, that he does not hold to that effect, according to whose opinion is the Boraitha, certainly not according to that of the sages?

Said R. Jacob bar Idi in the name of R. Jehoshua ben Levi: "The Halakha prevails according to R. Johanan ben Nouri." Said R. Zera to R. Jacob: "Didst thou hear R. Jehoshua himself declare this, or dost thou merely infer this from another ruling made by him?" And he answered: "I heard him declare it." What ruling could R. Zera have referred to, which R. Jehoshua ben Levi had made? The ruling made by R. Jehoshua ben Levi elsewhere, that the Halakha always prevails according to the Tana, who makes the laws regarding Erubin more lenient. Why was it necessary for R. Jehoshua to make both statements? Said R. Zera: It was necessary; for had he said merely, that the Halakha prevails according to R. Johanan ben Nouri, we might assume that it always prevails thus, whether it be more lenient or more rigorous than another; hence we are told, that the Halakha prevails according to the one who is the more lenient regarding the laws of Erubin.

Let him say then, that the Halakha prevails according to the one who is the more lenient with the laws of Erubin, and that will cover the case of R. Johanan who *is* more lenient. Nay; it was also necessary to make the statement regarding R. Johanan exclusively; because it might be assumed that the Halakha prevails according to the more lenient interpretation where one opinion is opposed by the opinion of another individual, or where the opinion of a number (of sages) is opposed by the opinion of another number (of sages), but if the opinion of one is opposed by that of a number, the latter opinion prevails whether it be lenient or rigorous; hence we are told that the opinion of R.

Johanan ben Nouri prevailed although opposed by a number of sages, and from this the rule is adduced that as far as the laws of Erubin are concerned the more lenient Halakha prevails even if the opinion of one is opposed by a number (of sages).

R. Papa, however, said: "Both statements made by R. Jehoshua ben Levi are necessary, because, had he simply stated, that the Halakha of the more lenient Tana only prevails, we might have assumed that he referred only to Erubin of courts and not to Erubin of legal limits; therefore he also stated the case of R. Johanan ben Nouri in order to demonstrate that he referred also to Erubin of legal limits."

R. Ashi said: "Both statements made by R. Jehoshua ben Levi are necessary because, had he only made the statement concerning the Halakha of the more lenient Tana, it might have been assumed that he referred to an Erub that had been made for a number of Sabbaths and had gradually dwindled, but not to such Erubin as had been made afresh; hence he also made the statement concerning R. Johanan ben Nouri in order to emphasize the fact that the more lenient Halakhoth prevail even in the instances of newly made Erubin."*

R. Jacob and R. Zreika both said: "In all instances where R. Aqiba differs with an individual the Halakha prevails according to R. Aqiba. In all instances where R. Jose differs even with a number of sages the Halakha prevails according to R. Jose, and in all instances where Rabbi differs with an individual, the Halakha prevails according to Rabbi." For what purpose is this statement made? Shall we act accordingly or is this merely a vague statement? R. Assi said: "Yea; we must act accordingly. Where R. Aqiba differs with an individual we must act in accordance with R. Aqiba's opinion; where R. Jose differs with a number of sages we must act in conformity with R. Jose's opinion." R. Hyya bar Abba, however, said: R. Jacob and R. Zreika did not mean to establish the rule, that the Halakha prevails according to the opinions of R. Aqiba, R. Jose and Rabbi, but that they should be given preference wherever possible over their opponents (*i.e.*, if, for instance, a man asks

* The following paragraphs in the original Gemara are devoted to arguments of R. Papa and R. Ashi concerning the adduction of the differences quoted by the two Rabbis in the preceding paragraphs and quote the Boraitoth further on. Hence we have omitted them, and the reader will understand this from what follows. This rule is made by us for the benefit of the Hebrew scholar and will apply to all such omissions later.

concerning a decree of R. Jose, it may be declared valid, but it should not be taught as a rule in the colleges that when a number of sages decide against R. Jose the Halakha nevertheless prevails according to his opinion). R. Jose bar R. Hanina, however, said : (Not even this should be done.) R. Jacob and R. Zreïqa merely assert, that it seems to them that the Halakhas should prevail as stated, but not that this should be maintained as a general rule (and if one inclined to their opinion, he cannot be accounted wrong).

In the same manner as there is a divergence of opinions concerning the statement of R. Jacob and R. Zreïqa, so is there also a dispute concerning the following statement of R. Jacob bar Idi in the name of R. Johanan: In all instances where R. Meir and R. Jehudah differ, the Halakha prevails according to R. Jehudah, wherever R. Jehudah and R. Jose differ the Halakha prevails according to R. Jose, and so much more when R. Meir and R. Jose differ the Halakha prevails according to R. Jose, for if R. Jehudah is given preference over R. Meir, and R. Jose over R. Jehudah, then certainly R. Jose has preference over R. Meir.

Said R. Assi: "From this I can infer, that where R. Jose and R. Simeon differ, the Halakha prevails according to R. Jose, for R. Abba said in the name of R. Johanan, that wherever R. Simeon and R. Jehudah differ, the opinion of R. Jehudah prevails." As a matter of course if R. Jehudah is given preference over R. Simeon, R. Jose is certainly more competent authority than R. Simeon.

The schoolmen propounded a question: "How is it, when R. Meir and R. Simeon differ?" This question is not decided.*

R. Mesharshia said: All these rules are of no account (*i.e.*, decisions should be made according to the dictates of one's own understanding); for Rabh never acted according to such rules.†

* Wherever a question remains undecided in the Talmud, the letters Taph, Iod, Quph, Vav, are inserted, and some scholars maintain, that this means "Theiqu," *i.e.*, "So shall it remain." Others, however, maintain that the letters stand for: "Tishbi = Elijah the prophet, Iethartz = will answer, Qushiuth = contradictions, Veabaioth = and questions.

† This statement of R. Mesharshia applies to the whole Talmud from the fact that, although the authorities quoted above are among the greatest of the Mishna and the Gemara, the interpretation of all Halakoth should be based upon common sense, and in connection with this we would wish to call the attention of the reader to the assertion made in our article, "What is the Talmud?" contained in our "The Pentateuch, Its Languages, Character, etc.," and in our article entitled "Two Questions

R. Jehudah said in the name of Samuel: "Things belonging to non-Israelites, if situated at a certain place on the Sabbath, do not acquire the right to their resting-place." According to whose opinion is this statement? Shall we say, according to the opinion of the sages? This is self-evident; for they hold, that even things having no particular owner do not acquire the right to their resting-place, and so much more things belonging to a Gentile, which accordingly possess an owner. Hence we must say, that this is even in accordance with the opinion of R. Johanan ben Nouri, who says, that things having no particular owner *do* acquire the right to their resting-place (but those, which have an owner, unless he be an Israelite, do not).

An objection was made: R. Simeon ben Elazar said: "Vessels which an Israelite borrows from a Gentile on a festival, or which he has lent to a Gentile and receives in return on a festival, also vessels and treasures which were within the legal limits on the eve of Sabbath, may be carried two thousand ells in every direction; but if a Gentile brought fruit on a Sabbath from beyond the legal limits, it must not be moved from its place." Now if it be said, that R. Johanan ben Nouri holds, that things belonging to a Gentile acquire a right to their resting-place, then R. Simeon ben Elazar's statement is in accordance with the opinion of this R. Johanan; but if the latter holds, that things belonging to a Gentile do *not* acquire a right to their resting-place, according to whose opinion is the statement of R. Simeon; not according to that of R. Johanan nor to that of the sages? Nay; R. Johanan may hold, that things belonging to a Gentile *do* acquire the right to their resting-place and still Samuel quoted the opinion of the sages; but as for this being self-evident, it is not so, for it might be assumed that a precautionary measure should be made in the case of a Gentile owner in order to put them on a par with vessels of an Israelite owner; therefore we are told that such a precautionary measure is not necessary. R. Hyya bar Abhin, however, said in the name of R. Johanan, that things belonging to Gentiles *do* acquire the right to their resting-place, as a precautionary measure for things belonging to Israelites.

It once happened that rams were brought into the city of

concerning the Talmud and Schulchau Aruch," published in the *American Israelite*, 1894, that "no one has any right to establish a code based upon Halakhoth of the Talmud."

Mabrahtha on a festival. Rabha allowed the inhabitants of the city of Mehuzza (which adjoined the other city) to buy them and take them home. Said Rabhina to Rabha: "Why didst thou permit this; because thou holdest to the opinion of Samuel, that things belonging to Gentiles do not acquire the right to their resting-place, but the rule is, that where Samuel and R. Johanan differ, the opinion of R. Johanan prevails and R. Johanan holds, that things belonging to Gentiles *do* acquire the right to their resting-place on Sabbath?"

Thereupon Rabha said: "Let the rams be sold to the inhabitants of Mabrahtha; for that city is to the rams as four ells (being equal to the case of where a man was brought into a pen or a fold against his will and may in consequence traverse the entire extent of the pen or fold, as if they were only four ells)."

R. Hyya taught: "If the legal limits of two cities terminated in the water and a partition was made to denote the place where they met, by means of a fishing-net, it is not sufficient; for an iron partition is necessary in order that the water of both limits should not mingle." R. Jose bar Hanina laughed at this teaching. Why did he laugh at it? Because Rabh decreed, that the sages were very lenient with all things pertaining to water (see page 24).

"But the sages hold, that he has only the right to move four ells." Is R. Jehudah not of the same opinion as the first Tana? Said Rabha: Nay; they differ to the extent of eight square ells. The sages hold that he may go four ells in every direction, that is, in all, eight square ells; but R. Jehudah says, that he may go only four ells in one direction. We have also learned to this effect in a Boraitha: "He may move in eight square ells, so saith R. Meir." Said Rabha: "They differ as to the extent that the man may traverse, but as for carrying things all agree, that he may do so only for a distance of four ells."

The questions seem to be centred in four ells. Whence do we derive these four ells? As we have learned in a Boraitha: From the passage [Exodus xvi. 29]: "Remain ye, every man in his place," etc. By "his place" is meant the size of his body. What is the size? Three ells, and one ell additional in case he wishes to stretch his limbs. So said R. Meir. R. Jehudah, however, said: "Three ells are allowed for the size of the body and an additional ell in case he wishes to take a thing at his feet and place it underneath his head." What is the point of variance between the two? According to one, the four ells

must be exactly measured, and according to the other, an approximate distance only is necessary.

R. Mesharshia said to his son: "When thou goest to see R. Papa, ask him whether the four ells are measured proportionately to the size of the man concerned or whether they are the holy ells (*i.e.*, ells measuring six spans). If he should tell thee, that the holy ells are meant, what should a man do who is as tall as Og, King of Bashan, and if he should tell thee, that the proportionate ells are meant, why were the four ells not included in the Boraitha, which teaches, that all things should be reckoned according to the proportionate ells."

When the son of R. Mesharshia came to R. Papa he was told: "If we were to learn the Talmud in this manner (*i.e.*, if we were so particular as to details) we would never be able to learn anything. Certainly proportionate ells are meant, and the reason the Boraitha does not mention them, is because it was not quite certain, and there may chance to be a dwarf, whose legal four ells the Boraitha did not feel justified in diminishing."

"*But between the two outer courts one must not carry anything.*" Why should this not be permitted? If both of the outer courts and the middle one have combined in one Erub, they are regarded as one court? Said R. Jehudah: "In this instance a case is referred to, where the middle court deposited an Erub in each of the outer courts; hence the two outer courts have no connection with each other." R. Shesheth, however, said: "Even if the two outer courts had deposited their Erubin in the middle court but had each done so in a separate house, they have no connection with each other. Had they deposited their Erubin in the same house, they would have been regarded as one court." According to whose opinion would this be? Shall we assume, that it was according to the Beth Shammai as we have learned in the following Boraitha: "If five persons conjoined their Erubin and deposited them in two vessels the school of Shammai hold them to be of no value, but the school of Hillel say they are of value." Nay; this latter opinion is even in conformity with the school of Hillel who, while maintaining, that if the Erubin had been deposited in separate vessels the connection would be consummated, may hold, that if this was done in separate houses the connection is not valid.

R. Jehudah said in the name of Rabh: "All the foregoing is according to the dictum of R. Simeon; the sages, however, hold, that from the two outer courts things may be carried into the

middle court, but from the middle court, things must not be carried into the outer courts; provided no Erub had been made, for one court may serve for two others, but two must not be utilized by one." And R. Jehudah goes on to state: "When I made this statement before Samuel, he said: 'Even this is in accordance with the dictum of R. Simeon; but the sages hold, that neither of the three courts may be made use of.'"

The following Boraitha is in support of the dictum of Samuel as quoted by R. Jehudah: R. Simeon said, "What can this be compared to? Three courts opening into each other and also opening into public ground. If the two outer courts had combined in an Erub with the middle one, a man is at liberty to carry victuals from either of the outer courts into the middle court and eat them, then remove the remainder (but a man of the middle court must not carry things into the outer courts);" the sages however said: "No connection is permitted between the three courts."

Samuel in making this statement holds to his theory advanced elsewhere: If there is a court between two entries, and an Erub was made by the court with both entries, connection between the court and both entries is nevertheless prohibited (but in each entry separately things may be carried); if, however, no Erub was made by the court with either of the two entries, the court acts as a bar so that carrying in either entry is prohibited even by the inhabitants of the entries. If the court, however, made more frequent use of one entry to the neglect of the other, it acts as a bar only to the one frequently used, but the inhabitants of the neglected entry *may* carry therein.

Said Rabba bar R. Huna: If the court made an Erub with the entry used only on rare occasions (it is evident, that henceforth, the court intends to make more frequent use of this entry and to abandon the other entry) then the other entry becomes separated and the inhabitants thereof may carry therein.

Rabba bar R. Huna said again in the name of Samuel: If the entry more frequently used by the court made an Erub for its own use, and the court itself as well as the neglected entry did not make any Erubin for their own use, the court is relegated to the neglected entry, but cannot prove a bar to the entry having an Erub, because that were otherwise as the manner of the Sodomites, *i.e.*, if an act is perpetrated which is neither beneficial nor injurious to the perpetrator but solely in order to injure another, the perpetrator is compelled to desist. (The compari-

son is made to the case in question as follows: Neither the inhabitants of the court itself nor of the entry may carry within their precincts nor even within the entry provided with an Erub, and hence it would not be just, if, because they were not permitted to carry, they should prove a bar to those who by virtue of their Erub are allowed to do so.)

R. Jehudah said in the name of Samuel: "The Erub of a man who is particular about it that his fellow (with whom he had joined in the Erub) should not eat it, is of no account. Why so? Because the word Erub signifies commixture, *i.e.*, those who make the Erub can individually do with it as they see fit, and if one man is particular about it, its intent is abolished." R. Hanina however said: The Erub is valid; but a man of that kind is like the men of Vardina (who were notoriously penurious).

R. Jehudah said again in the name of Samuel: "An Erub which is divided by a man in two parts or deposited by him in two separate vessels is of no account." Then Samuel's dictum is in accordance with Beth Shammai, as stated in the Boraitha (page 108): We may assume that Samuel's teaching may be also according to Beth Hillel; for the latter hold, that the Erub is valid only then, if one vessel was filled with it and the remainder had to be put into another vessel, but if it was originally divided and then deposited, it is not valid.

Samuel said: "The virtual intent of the Erub is, that by mutual interchange of articles, the right to the ground is bought and sold." Why then are eatables necessary; could it not have been permitted to make an Erub with money? Because, as a usual thing on the eve of Sabbath money is scarce. (If that is so, then why should an Erub that had been made with money not be valid? This is merely a precautionary measure, lest it should be said that the main principle of an Erub is money, and in the case of a lack of money, eatables will not be used in its stead, and thus the law of Erubin will sink into oblivion.) Rabba, however, said, that the Erub signifies, that wherever the victuals have been deposited, there the man resides, *i.e.*, wherever a man's bread is, there is also his domicile. What is the point of difference between Samuel and Rabba? The points of difference are as follows: A vessel of any value, victuals worth less than a Prutah (a coin of minimum value) and a minor. (According to Samuel a vessel having a market value may be used, but according to Rabba it does not follow that if it is

deposited in a certain place the owner resides there, hence it must not be used. Victuals worth less than a Prutah, according to Samuel, not having a market value, must not be used, but according to Rabba, being eatables, may be deposited. A minor, according to Samuel, cannot be commissioned to act because no money consideration can be intrusted to him, and according to Rabba where he only gathers the material for the Erub, he may be commissioned to act.)

Said Rabba in the name of R. Hama bar Guria, quoting Rabh: The Halakha prevails according to R. Simeon.

MISHNA: Should a man, when overtaken by dusk on the road (on the eve of Sabbath), single out a tree or a hedge and say: "I will take my Sabbath-rest underneath it," (*legally*) he has said nothing, but if he says: "I will take my Sabbath-rest at its base," he may go from the spot on which he stands to the base of the tree or hedge two thousand ells and thence to his domicile two thousand ells more; thus it may be seen, that a man may go four thousand ells after dark (on Sabbath). If he cannot single out a tree or a hedge or is not conversant with the Halakha (covering his case) and says: "I will take my Sabbath-rest on the place where I stand," the spot upon which he stands (virtually) gives him two thousand ells in any direction; in a circle, according to the dictum of R. Hanina ben Antigonus; but the sages hold, that he has two thousand ells in a square, so as to enable him to take advantage of the angles. This rule is explanatory to the saying (of the sages): "The poor prepare their Erubs with their feet." R. Meir said: "This rule is applied only to the poor," but R. Jehudah replied: It applies to poor and rich both; inasmuch as the Erub to be made with bread was only decreed in order to render its observance easier for the wealthy, so that they should not be compelled to go out and prepare the Erub with their own feet.

GEMARA: What is meant by "legally he has said nothing"? Said Rabh: "It means literally that he has said nothing and must not move from his place; (because where he stands, he did not acquire the right to rest on Sabbath, his intention having been to rest underneath the tree. Underneath the tree he acquired no right, not having specified the spot where he would rest, and although the space underneath the tree is within two thousand ells from his position at the time, as long as he did not specify the exact spot he must not go there)." Samuel, however, said: It means, that he said nothing con-

cerning the distance from the tree to his domicile but he may traverse the distance from where he stands to the tree (because the entire space underneath the tree is within two thousand ells of his position at the time, and the distance from his domicile is only two thousand ells to the base of the tree, but to the entire space underneath the tree it is more than two thousand ells); hence this entire space is like driving an ass and leading a camel, for it is not known from which side the distance to his domicile is two thousand ells. If it be measured from the north, chances are that it should be measured from the south, and *vice versa*.

Said Rabba: (Samuel's opinion is feasible, for he says, that the man acquired the right to two thousand ells from where he stands; but not having determined the exact spot underneath the tree, he loses the further two thousand ells to his domicile) but what grounds has Rabh for his opinion? Rabh holds, that if two intentions, one consequent upon the other, are expressed in one assertion, the inability to carry out one intention destroys the other also (and in this case as the man cannot proceed from the tree to the domicile it invalidates his right to go from his place to the tree). What is the difference between the two opinions? The difference is if one says, "I will take my rest in the four ells of the eight ells underneath the tree," according to those who hold that the place of rest must be exactly determined, it is of no value, but he who holds that if two intentions, one consequent upon the other, are expressed in one assertion, the inability to carry out one intention destroys the other also, in this case when he determines four ells it may be called the exact spot, and is valid.

Said R. Huna the son of R. Jehoshua: The case in the Mishna mentioned "he legally said nothing" applies only if the space underneath the tree is eight ells or more; but if it measures only seven ells the man may proceed to the tree and from the tree to his domicile (because he is entitled at any rate to four ells and no matter from which side the distance to his domicile is measured, part of his domicile will be within two thousand ells).

We have learned one Boraitha in support of Rabh and another supporting Samuel: The one upholding Rabh is as follows: If one, while on the road, was overtaken by dusk, and, singling out a tree, said: "I will take my Sabbath-rest underneath it," he has said nothing. If he said, however, that he would rest in a certain place, he can proceed to that place and,

arriving there, may traverse the entire extent of that place and two thousand ells outside of it. When may he do so? If he designated a particular place, *i.e.*, if he designated a sand-heap ten spans high, or a valley ten spans deep, and from four ells to two saahs' capacity wide; but if he did not previously designate the place or there was no such place in existence, he may only move four ells from where he is situated at the time. If there were two men, one of whom could designate the place and the other could not, the latter may invest the former with the right to select the place for him and he (the former) may act accordingly. This is the case only if the man designates the four ells where he desires to rest, but if he does not, he must not move from his place.

The Boraitha upholding Samuel is as follows: If a man made an error and deposited his Erub in two directions, or if a man thought that it was allowed to make two Erubin and go in one direction in the morning and in another in the afternoon, or if a man said to his servants: "Make an Erub for me," without specifying the place for it, and one of them made the Erub in the north and the other in the south, the man may go south for a distance of two thousand ells minus the distance from his house to the Erub on the north or may go north for a distance of two thousand ells minus the distance from his house to the Erub on the south. If the house was midway between the two Erubin, however, *i.e.*, the two Erubin were placed equidistant from the house two thousand ells, he must not move beyond his house.

"If he says, '*I will take my Sabbath-rest at its base,*'" etc. Said Rabha: "Being overtaken by dusk" signifies, that if the man walked slowly he could not reach the tree before dusk, but if he ran speedily he could reach the base of the tree.

Rabba and R. Joseph were on the road: Said Rabba to R. Joseph: "We will rest underneath the tree that tolerates good fellowship." And according to another version he said: "We will rest underneath the tree, that honorably acquits itself of its dues (*i.e.*, that bears quantities of fruit and thus pays its dues)." Said R. Joseph: "I know not of such a tree." Answered Rabha: Depend upon me, as a Boraitha stated, R. Jose said: If there be two men, one of whom could designate the place and the other could not, the latter may invest the former with the right to select the place for him and he (the former) may say: "There shall we rest." In truth this is not so. R. Jose

never said this; but Rabba asserted this in the name of R. Jose so that R. Joseph should listen to him; for it was known that R. Jose was final authority and that the Halakhas prevailed according to his opinion.

"If he cannot single out a tree or is not conversant with the Halakha." From what biblical passage is all this talk about two thousand ells adduced? We have learned in a Boraitha: It is written [Exod. xvi. 29]: "Remain ye every man in his spot, let no man go out of his place on the seventh day." "On his spot" means four ells, and "out of his place" refers to two thousand ells. Whence does the Boraitha adduce this assertion? Said R. Hisda: "Because it is written [Numbers xxxv. 5]: 'And ye shall measure from without the city on the east side two thousand ells,' etc. (Thus from the verse it is seen, that the city was in the centre and they measured two thousand ells on every side and from this the legal limits were derived.)

"Two thousand ells in any direction in a circle," etc. What grounds has R. Hanina ben Antignous for the statement? If he agrees to the interpretation of the passage quoted, he should have said in a square, for so the passage determines, and if he does not hold to the passage at all, whence does he adduce two thousand ells in general? He holds to the interpretation of the passage quoted, but the end of the same verse reads, *"This shall be to them the open spaces of cities,"* and he declares, that for the purpose of the verse it should be in a square, but for Sabbath it should not be in a square. Whence do the sages adduce that the two thousand ells should be in a square? The sages hold with Hananiah, who taught, that *"this shall be to them,"* should read *"as this,"* and as this should be all the legal limits of the Sabbath.

Said R. A'ha bar Jacob. One who carries four ells in public ground is not culpable unless he carries in a diagonal of four ells.*

Said R. Papa: "Rabha wished to examine us and asked the following question: 'Is it necessary that a pillar ten spans high and four wide standing in public ground, should contain a square so that a diagonal can be drawn?' We answered: Is this not the same as the teaching of R. Hananiah which states '*as this* should be all the legal limits of Sabbath.'"

"R. Meir said: 'This rule is applied only to the poor,'" etc.

* Rashi explains this to mean 4 ells and $\frac{8}{3}$ or $1\frac{2}{3}$ of an ell additionally. It is difficult to understand just how this is meant or how the diagonal can be derived without the square.

Said R. Na'hman: "The point of difference between R. Meir and R. Jehudah is where a man says: 'I will rest in my place' (where I am standing). R. Meir holds, that the principal thing to be used for an Erub is bread; and for the poor man, who has no bread with him, it is made easier; the rich man, however, has no right to do so; but R. Jehudah holds, that the principal way to make an Erub is to make it with one's feet, whether the man be poor or rich, but concerning the designation of a tree or a certain place for a Sabbath-rest while travelling, all agree, that it is allowed for a poor man but not for a rich man." The statement in the Mishna "This rule is explanatory to the saying," means to say that the saying is that of R. Meir, and what does it refer to? To the previous clause in the Mishna, "If he cannot single out a tree or is not conversant with the Halakha." The teaching "for the poor man who has no bread with him, it is made easier," is that of R. Jehudah.

R. Hisda, however, said: On the contrary. R. Meir and R. Jehudah differ only as to the designation of a certain place for the Sabbath-rest, the former holding, that for a poor man this *is* allowed, but not for a rich man, and the latter holding that it is permitted for both; but all agree that as for resting in one's place where he stands it is allowed to both rich and poor, because the principal way of effecting an Erub is with one's feet. The statement of the Mishna, "This rule is explanatory to the saying," refers to a man who was overtaken by dusk, while the teaching "for the poor man who has no bread, it is made easier," is according to the opinion of all.

We have learned a Boraitha in support of R. Na'hman: Be it a poor man or a rich man an Erub should be effected with bread. A rich man should not go out to the legal limits and say: "Here will I take my Sabbath-rest" because this is allowed only to one who was overtaken by dusk on the road, so saith R. Meir. R. Jehudah, however, said: Be it a poor man or a rich man the Erub should be effected with the feet and a rich man may go out to the legal limits and take his Sabbath-rest there, because the principal manner of effecting an Erub is with the feet. To the householder, however, the sages allowed to send a servant, a son, or any other messenger, to make the Erub in his stead, in order to make it easier for him, and R. Jehudah said again: It happened to the men of the house of Mamel and of the house of Gurion in the city of Aruma who would distribute figs and raisins during years of famine, that the poor of the villages

of Shihin and Hananiah would come on the eve of Sabbath to the legal limits, remain there over night, and on the morrow would enter the city of Aruma and receive their share.

R. Hyya bar Ashi taught Hyya the son of Rabh in the presence of Rabh: "Be he a rich man or a poor man." Said Rabh to him: "Add to this teaching, that the Halakha prevails according to R. Jehudah."

Rabba bar R. Hanan generally went on the Sabbath from Artibna to Pumbaditha. Once, while on the way he said: "I will take my Sabbath-rest in Tzintha (a small hamlet between the two towns)." Said Abayi to him: Why dost thou say this, because thou knowest, that where R. Meir differs with R. Jehudah the Halakha prevails according to R. Jehudah and besides, thou art of the opinion of R. Hisda, who holds, that they differ only concerning the designation of a certain place for the Sabbath-rest; but did not R. Na'hman explain to the contrary and have we not a Boraitha in support of R. Na'hman?

Answered Rabba bar R. Hanan, "Henceforth I shall not do this again."

Rami bar Hama asked: "It was said, that one who made an Erub by means of his feet, has four ells for himself besides the two thousand allowed him. What is the law concerning one who had sent bread to make the Erub? Has he the extra four ells or not?" Said Rabha: "Come and hear: The Mishna states that the Erub was to be made with bread only to make it easier for the wealthy. If we should say, that he has not the four ells, it will not be made easier for the wealthy, but on the contrary stricter?" It will not be stricter? For he would rather lose the four ells and be enabled to send a messenger in his stead than to go himself.

MISHNA: If a man (on the eve of Sabbath) had been despatched by his townsmen to combine by an Erub a town (or village in the vicinity) and was subsequently induced by a neighbor to go back (before completing his errand) he is permitted to go to the place in question (nevertheless); all his townsmen, however, are forbidden (to go thither). Such is the dictum of R. Jehudah; but R. Meir said: One who can prepare an Erub and does not prepare it, is (like one driving) an ass and (leading) a camel (at the same time).

GEMARA: What difference is there between the man and his townsmen? Said R. Huna: "This is a case of where a man possessed two houses which had two legal limits between them,

i.e., they were four thousand ells apart and the man went out on the road without taking bread along. He is then considered as a poor man; (and in consequence made his Erub wherever he was with his feet) but his townsmen who sent him to make the Erub are regarded as wealthy and their Erub not having been effected are not allowed to go out."

We learned a Boraitha supporting this teaching: "One who has two houses between which there are two legal limits makes the Erub valid as soon as he starts out on the way from one to the other, such is the dictum of R. Jehudah. Moreover, said R. Jose the son of R. Jehudah, even if his comrades meet him and tell him to stay over night where he is, because it is too hot or too cold, he may arise in the morning and continue on his way (for his intention was originally to make his Erub at the end of his journey)."

Said Rabba: "All agree that a man may continue his journey after remaining at a certain place over night, if he had been persuaded to interrupt his journey by another, but if he did so of his own accord, he must not continue on his way, because he may have changed his original intention. Wherein they differ is, if the man was persuaded to remain at a certain place before commencing his journey. According to one, his Erub is invalid as long as he had not yet started, and according to the other, it is valid because the intention originally existed."

R. Joseph, however, said: "All agree that one must start on the journey, otherwise his Erub is not valid; but they differ in a case of a man having been persuaded to stop over at a certain place or doing so of his own accord. One holds, that if he stopped over of his own accord, he may have changed his original intention and hence his Erub is not valid, while the other maintains, that as long as he had started, it does not matter.

R. Jehudah bar Isht'tha brought a basket of fruit to R. Nathan bar Oshiya on the eve of Sabbath (and the distance from his house to that of R. Nathan was four thousand ells). He started to return and R. Nathan let him go as far as the first step and then said to him: "Remain here over night." On the morrow, he arose and returned to his home.

"*But R. Meir said: 'One who can prepare an Erub,'*" etc. Have we not learned already in a Mishna (of the third chapter) that R. Meir and R. Jehudah both said: "If (an Erub) is doubtful, this is (like driving) an ass (and leading a) camel." Said R. Shesheth: It might be assumed that the reason of R. Meir's

opinion is that only in the case of a doubtful Erub, it is a case of an ass and a camel, but if it is known to a certainty that no Erub was made, such is not the case (but it is positively forbidden); hence we are given to understand that even where it is certain that the Erub was not made it is also a case of an ass and a camel; because the Mishna cites a case where it is certain that no Erub was made.

MISHNA: If one went beyond the legal limit even a single ell, he must not go back the entire distance. R. Eliezer said: If he went two ells beyond the limit he may go back; but if three ells, he must not.

GEMARA: Said R. Hanina: "If a man had one foot within the limit and the other foot outside he may enter, because it is written [Isaiah lviii. 13]: 'If thou restrain thy feet for the sake of the Sabbath' and we read 'thy feet' and as one foot was still within the limit, it cannot be said, that he had restrained his feet." We have learned, however, in another Boraitha, that he must not enter? R. Hanina holds according to the opinion of the anonymous teachers, who maintain in still another Boraitha, that wherever the greater part of the body of a man is situated, there is his place.

"*R. Eliezer said: 'If he went two ells,'*" etc. Did we not learn in a Boraitha, that R. Eliezer said: If he went one ell beyond the limit he may go back; but if he went two ells, he must not? This presents no difficulty; our Mishna refers to a case where he had overstepped one ell and remained exactly two ells beyond, while the Boraitha refers to one who had overstepped two ells and was already in the third. Did we not learn in another Boraitha, that R. Eliezer said: "Even if he had stepped out one ell, he must not reënter?" This Boraitha refers to the one who measured the legal distance (as is stated in the last Mishna of the next chapter, which will be explained then and there).

MISHNA: One who was overtaken by dusk one ell outside of the legal limit must not reënter the town; R. Simeon, however, said: Even if one was fifteen ells beyond the limit, he may go back, as the land-surveyors who establish the limits, are not very exact in their measurements and allowance is made for those who might err.

GEMARA: We have learned in a Boraitha: "It sometimes happens that the land-surveyors forget their mark and go beyond the distance."

CHAPTER V.

REGULATIONS CONCERNING THE BOUNDARIES OF A TOWN AND THE MEASUREMENTS OF THE LEGAL LIMITS.

MISHNA: How can the boundaries of a town be extended? If one house recede from the city wall and another project, or if a ruin recede or project, or if fragments of a wall ten spans high lie beyond the walls, or if there be any bridges or cemeteries, with dwelling-houses thereon, the measurement of a town is commenced on a level with them; and the whole is formed into a (quasi) square, in order to gain the angles.

GEMARA: R. Johanan said: For eighteen days I lived with Oshiya the Great and did not learn but one thing concerning this Mishna, namely: The Mishna should not read "How can the boundaries of a town be extended, but how can they be restricted." * This is not so! Did not R. Johanan once assert, that during his stay with Oshiya the Great for eighteen days he learned to know the heart and wisdom of each one of Oshiya's twelve disciples? He says only that he learned but one thing concerning *this Mishna*, but aside from that, he learned many other things.

R. Johanan said again: "When we were studying the Law at Oshiya's we sate four men to one ell." Rabbi said: "When we studied at R. Elazar ben Shamua's college we sate six men to one ell."

R. Johanan said once more: As R. Meir was in *his* generation so was R. Oshiya the Great in his day. As with R. Meir, the colleagues of his day, could never arrive at his final decisions, so was it also with Oshiya. His colleagues could also never fathom his ultimate conclusions.

R. Johanan said again: The hearts of the first sages were as broad as the porch of the Temple and those of the later sages were as broad as the gates of the Temple, but our hearts are as

* The question here arises whether the Hebrew term "Meabrin," which we render with "extended," is spelled with an Aleph or an Ayin. If with an Aleph it signifies extended, and if with an Ayin it means districted.

narrow as the eye of a sewing-needle. Whom does he refer to as the first sages? R. Aqiba. Whom as the later sages? R. Elazar bar Shamua, and according to another version he refers to R. Elazar ben Shamua and Oshiya the Great respectively.

Said Abayi: We are as a nail driven in a hard wall as far as explanations are concerned (*i.e.*, we understand but little of what we hear, and that with difficulty). Said Rabha: We are also like a finger pushed into a cake of wax (meaning we are so dull of comprehension where comparisons are concerned, that but as little remains with us as with the finger that has been pulled out from the wax). Said R. Ashi: "And we may say, that it is as easy for us to forget what we have learned as it is to put our finger in the hole of a well."

R. Jehudah said in the name of Rabh: The children of Judæa who paid strict attention to the words of their masters and propounded many questions retained all they learned. The Galileans, however, who did not pay strict attention to the language of their masters, and did not question them, did not retain anything. The Judæans learned from one master, hence they remembered what they learned; but the Galileans had many teachers and in consequence they did not retain anything.

Rabhina said: The Judæans taught every tract they had themselves mastered to others; hence they retained their knowledge; because teaching others improves one's own learning; the Galileans, however, did not do this and in consequence their knowledge forsook them. Of David who taught others it is said [Psalms cxix. 74]: "Those that fear thee will see me and be rejoiced," but of Saul, who did not teach others, it is said [I Samuel xiv. 47]: "And whithersoever he turned himself, he caused terror."

Said R. Johanan: "Whence do I know, that the Lord forgave Saul for the sin of massacring the priests of the city of Nev?" Because Samuel's spirit said unto him: "On the morrow, thou and thy children shall be with me." What is meant by "with me"? (That means in the same place as Samuel and as Samuel was a righteous man and certainly in Paradise, so Saul must have been forgiven in order to share Samuel's abode.)

R. Jehoshua ben Hananiah said: "I was never disconcerted in my life except by a woman, a boy, and a little girl. The instance of the woman occurred in this wise: I at one time resided at the house of a widow. At table she set before me a

plate of beans and I ate it up leaving nothing. On the second day she gave me the same dish which I also consumed entirely. On the third day she made the dish too salt and after tasting it I naturally stopped and left it alone. Said she to me: 'Rabbi, why dost thou not eat?' and I answered, that I had already eaten during the day; she then rejoined: 'Thou shouldst have eaten less bread,' and continued: 'Perhaps because thou didst not leave any Peah* on the first two days, thou dost leave it now to serve for all three; for have not our sages decreed, that no Peah need be left in the cooking pot, but some should be left in the plate on which the dish is served?'"

The instance of the little girl happened as follows: Once I was travelling on a road and seeing a beaten path leading across a meadow I took that path. Said a little girl to me: "Rabbi! is this not a meadow that thou art crossing?" and I answered: "Is this not a beaten path?" and she answered: "Yea; such robbers as thou art have made it a beaten path." As for the affair with the little boy it happened thus: Once while on the road I noticed a child sitting at a cross-road. I asked him, which road led to the city, and he answered: "This road is the shorter but at the same time the longer, and this one is long but nevertheless short." I took the shorter road that was at the same time the longer. When I came to the city I saw the entrance to the city at that point was surrounded by gardens and vineyards, so that I had to retrace my steps. Said I to the child at the cross-road: "Didst thou not say that this was the short route?" and he answered: "Did I not also tell thee that it was a long route?" I then kissed him on the forehead and remarked: "Well is thee, Israel, that all thy children are wise, both great and small."

R. Jose the Galilean was travelling on the road. He met Brurih (the wife of R. Meir) and asked her: "Which way must we take to the city of Lud?" She answered: "Thou Galilean fool! Did not our sages say, that thou shouldst not converse much with a woman? Thou shouldst have asked, which way to Lud?"

The same Brurih once found a young scholar learning quietly to himself. She scolded him and said: "It is written [II Samuel xxiii. 5]: 'Firm in all and sure,' which signifies, that if the Law

* Peah signifies the corners of the field, the crops of which must be left over for the widows, orphans, etc.

is firmly imbedded in all the two hundred and forty-eight members of the body it can remain with the man, otherwise it cannot." We have learned that there was a disciple of R. Eliezer, who learned quietly to himself and in the course of three years he forgot all he had learned.

Said Samuel to R. Jehudah: Thou sagacious one. Open thy mouth, when thou readest and also when thou learnest and then may it come to pass, that thou shalt live long, as it is written [Proverbs iv. 22]: "For they are life unto every one of those that find them, and to all his body a healing." Do not read "that find them," but "that make them a find for others," that is by pronouncing them with the mouth others will hear them and be benefited.

Samuel said again to R. Jehudah: Thou sagacious one! As long as thou hast any money, eat and drink; for the world which we leave behind is like a wedding-feast, it is soon over (and in the next world, thou wilt not be able to do this).

Rabh said to R. Hamnana: My son! If thou hast the wherewith to do thyself good, do so, for in the grave there is no pleasure and there is no fixed time for death, and if thou shouldst wish to say: "I will leave my children sufficient to live on when I am in my grave," who can assure thee, that they will keep it; for men are like grass in the field—some spring up and have everything prepared for them while others fade and have nothing.

R. Jehoshua ben Levi said: One who travels on the road and has no companion, should study the Law, as it is written [Proverbs i. 9]: "For a wreath of grace are they unto thy head, and chains for thy throat." If a man have a headache, he should study the Law for it is "a wreath of grace" unto his head. If his throat be sore, he should study the Law for it is "a chain" for his throat. If thy stomach hurt thee, do likewise, for it is written [ibid. iii. 8]: "It will be healing to thy travel" (body), and also if thy bones ache, for it says further [ibid.], "and marrow to thy bones." Likewise one who has pains in any part of his body should study the Law, for it is written [ibid. iv. 22]: "And to all his body a healing."

Said R. Jehudah ben R. Hyya: Come and observe how the custom of the Lord differs from that of man! If a man prescribes a remedy, it may benefit one and injure another, but the Holy One, blessed be He, gave the Law to all Israel as a remedy for all and for the whole body as it is written: "And to all his body a healing."

R. Ama said: It is written [Proverbs xxii. 18]: "For it is a pleasant thing if thou keep them within thy bosom, if they be altogether firmly seated upon thy lips." Which signifies: "When are the words of the Law a pleasant thing? If thou canst keep them within thy bosom, and when canst thou keep them in thy bosom? If thou canst pronounce them well with thy lips."

R. Zera said: It is written [ibid. xv. 23]: "A man hath joy by the answer of his mouth; and a word spoken at the proper time, how good is it." Which signifies: When hath a man joy by the answer of his mouth, if at any time that he is asked concerning the Law, he can make proper reply.

R. Itz'hak said: It is written [Deut. xxx. 14]: "But the word is very nigh unto thee, in thy mouth, and in thy heart, that thou mayest do it." When is the word nigh unto thee? If it is in thy mouth, and in thy heart thou meanest to do it.

Rabha said: It is written [Psalms xxi. 3]: "The longing of his heart hast thou given him, and the request of his lips hast thou not withholden. Selah." Which means: When was the longing of his heart given him? If the request of his lips was in accordance with the Law.

Rabha inferred a contradiction from the verse just quoted: It says, "The longing of his heart hast thou given him," and immediately afterwards, "and the request of his lips hast thou not withholden." If the longing of his heart was given him, what need was there of the request of his lips? And explained this seeming contradiction thus: If the man had merited it, the longing of his heart was granted him without request, but if he did not, he first had to make a request for it, before it was granted.

The disciples of R. Eliezer ben Jacob taught: In every instance, where the words "Netzach," "Selah," or "Voëd" form the conclusion of the passage it signifies, that it will be forever without interruption. As for the word "Netzach" it is written [Isaiah lvii. 16]: "For not to eternity will I contend, neither will I be forever wroth"; "forever" is here expressed by "Netzach." As for the word "Selah" it is written [Psalms xlviii. 9]: "As we have heard, so have we seen it in the city of the Lord of Hosts, in the city of our God: God will establish it forever. Selah." Concerning "Voëd" it is written [Exod. xv. 18]: "The Lord will reign for ever and ever" and the expression used is "Voëd."

R. Elazar said: The term quoted in the verse [Proverbs i. 9]:

"Chains for thy throat" means to signify, that as a chain is loose around the neck and is not seen when a man bows his head, so it is with a scholar. If he is not seen constantly in the markets, or oppresses not his neighbor, but sits quietly and studies the Law, he retains his knowledge; otherwise he does not.

R. Elazar said again: The verse [Solomon's Song v. 13]: "His cheeks are as a bed of spices" means "If a man makes himself as a bed (of plants) upon which everyone treads (*i.e.*, is extremely modest) and also conducts himself as a man who held spices in his hand, which even after leaving the hands, still make them fragrant, he retains the knowledge he has acquired, otherwise he does not."

He said again: It is written [Exod. xxxi. 18]: "Tables of stone" (tables are in this verse expressed by the Hebrew term "Luchoth" and Lechi also means cheek). This refers to a man who hardens his cheeks until they are like stone and when trodden upon are not defaced, meaning a man who constantly studies and in the same manner as the stone is not impaired by wear, the constant study does not injure the man: such a man retains knowledge, otherwise he does not.

Again R. Elazar said: It is written [Exod. xxxii. 16]: "Engraved upon the tables," which means, that if the tables had not been broken the first time, the Law would never have been forgotten by Israel, for a thing that is engraved cannot be obliterated, and R. Aha bar Jacob added, "that no nation on earth could have got them in their power," because: do not read "Charuth" (engraved) but "Cheiruth" (liberty).

R. Mathna said: It is written [Numbers xxi. 18]: "And from the wilderness to Mattanah,"* which signifies, that if the man makes himself as a wilderness, upon which everybody treads, and does not mind it, the knowledge he gains remains with him as a present.

R. Huna said: It is written [Psalms lxviii. 11] Thy assembly dwelt therein: thou didst prepare it with thy goodness for the afflicted people, O God! ("Thy assembly" is expressed in the Hebrew by "Chaiothcha" and Chaiyah means a wild beast.) If a scholar is in the manner of learning as a wild beast which devours its prey immediately after killing it, *i.e.*, as soon as he learns a thing he repeats it again and again until he knows it thoroughly, he retains his knowledge, otherwise he does not. If

* Mattanah is the Hebrew term for a present.

he does this, however, the Holy One, blessed be He, Himself, prepares a meal for him, as may be seen from the end of the passage quoted.

R. Hyya bar Abba said in the name of R. Johanan: It is written [Proverbs xxvii. 18]: "Whoso guardeth the fig-tree will eat its fruit." Why are the words of the Law compared to a fig-tree? As a fig-tree yields its fruit whenever it is shaken, so does the Law always yield new teachings whenever it is repeated.

R. Samuel ben Na'hmeni said: It is written [Proverbs v. 19]: "Let her bosom satisfy thee abundantly at all times." Why is the Law compared to a bosom? Because as at all times when the child desires to suck, the bosom yields its milk, so does the Law yield its teachings every time it is perused. Further, it is written [ibid.]: "With her love be thou ravished * continually." This means to imply as was said of R. Elazar ben P'dath, that when he was studying the Law in the lower market of Sephoris, his clothes were frequently found in the upper market; so engrossed was he in his studies, that he did not even miss his clothes. Said R. Itz'hak ben Eliezer: "Once a man attempted to steal the clothes of this R. Eliezer and found an adder lying on top of them."

The disciples of R. Anan taught: It is written [Judges v. 10]: "Ye that ride on white asses, ye that sit in judgment, and ye who walk on the way, utter praise!" "That ride on white asses" refers to scholars who go from town to town and from country to country to teach the Law and who make it clear as daylight. "That sit in judgment" refers to those who give a just verdict which is truly just. "Who walk" refers to those who study the Bible, "on the way" refers to the students of the Mishna, and "utter praise" refers to the students of the Talmud, whose every utterance is concerning the Law.

R. Shezbi said in the name of R. Elazar ben Azariah: It is written [Proverbs xii. 27]: "The indolent roasteth not that which he hath caught in hunting." This signifies, that one who studies the Law superficially merely to delude people but does not study it thoroughly and repeat it often, will not retain the knowledge nor will he live long. R. Shesheth, however, said: "A man of that kind is not wicked, but merely foolish; on the other hand a prudent man, who studies many things and

* The Hebrew term for "ravished" in the verse is Tishgeh, which means also "thou shalt err."

makes marks, so that he will not forget what he had learned, retains his knowledge and will have long life."

When R. Dimi came from Palestine he said: The verse quoted is a simile to a man who catches birds. If he pinions the wings of those he catches, he can proceed and catch more, otherwise they will escape. The same applies to a man who studies the Law. If he reviews his learning constantly, he retains it and can proceed; if he does not, however, he cannot retain it.

Rabha in the name of Sechorah quoting R. Huna said: "It is written [Proverbs xiii. 11]: "Wealth gotten by vain deeds will be diminished; but he that gathereth by close labor will increase it." Which means: If a man groups the ordinances he has learned, he cannot retain them; but if he gathers them slowly and deliberately, he will constantly increase them." And Rabha said: "The Rabbis know of this and yet they pay no attention to it." Said R. Na'hman bar Itz'hak: "I have acted accordingly and in consequence I have retained my knowledge."

The Rabbis taught: "How was the method of teaching the Law in the days of Moses?" Moses learned the Law from the might of God. Then Aaron entered and Moses taught him a chapter. When Aaron had finished he sat down to the left of Moses and his children came in, when Moses would teach them the chapter again. When they had finished, Elazar would sit down to the right of Moses and Ithamar to the left of Aaron. R. Jehudah, however, said, that Aaron would always sit to the right of Moses after his children had finished. Following the sons of Aaron would come the elders of Israel and Moses would repeat the chapter to them. After the elders had finished, the rest of the Israelites who wished to learn would enter and would learn the same chapter. Thus we see, that Aaron heard the same chapter four times, his sons three times, the elders twice, and the rest of the people once. After the last reading Moses would depart and Aaron would again repeat the chapter to the others; then he would depart and his children would teach the chapter; after them the elders would do so, so that no one heard it less than four times. From this R. Eliezer deduced, that every teacher should recite his teaching to his disciples four times, holding that as Aaron who learned from Moses, who in turn learned from the might of God, had to learn one thing four times so much more ought an ordinary man to do so when learning from another.

R. Aqiba, however, said: Whence do we adduce, that a teacher should teach his disciple until the latter knows the lesson thoroughly? From the verse [Deut. xxxi. 19]: "Now therefore write ye for yourselves this song, and teach it the children of Israel," and whence do we infer, that a disciple must be taught until he can impart the teaching to others? From what is written further [ibid.]: "put it in their mouth," and whence do we know, that if the reasons for the teaching can be given, this must be done? From the verse [Exod. xxi. 1]: "And these are the laws of justice which thou shalt set before them," and by setting before them is meant that they must be thoroughly explained.

Why did not all learn directly from Moses? In order to show honor to Aaron, his children and the elders. If that be so, let Aaron learn it from Moses, Aaron's children from Aaron, and the elders from the children, then the people from the elders? Because Moses learned from the might of God, all wished to hear it from him.

R. Preida had a disciple, whom he would teach a thing four hundred times and then the disciple would understand it. One day R. Preida was invited to attend the celebration of a circumcision and as he was just teaching his disciple, he finished the teaching for the four hundredth time but still the disciple did not understand. So he asked him: "What is the difficulty?" and the disciple replied, that from the moment the master was invited to the celebration, he could not pay proper attention, thinking that every moment he would be going away. So R. Preida said: "Pay proper attention and I will teach thee again," and he accordingly repeated the teaching another four hundred times. A heavenly voice was heard at that time which said: "What wouldst thou rather, that thou live another four hundred years, or that thou and the entire generation in which thou livest should be given a share in the world to come." R. Preida answered: "I would rather accept the latter proposition." Said the Holy One, blessed be He: "Give him both."

R. Hisda said: The law cannot be retained except through signs, as it is written (as quoted previously): "Put it in their mouth." Read: "Put it with signs in their mouth." R. Tachlipha of Palestine heard this and on his arrival home repeated it in the presence of R. Abbahu. Said R. Abbahu: Ye learn this from that verse, but we derive the same from the verse [Jeremiah xxxi. 21]: "Set thyself up way-marks," mean-

ing, set up way-marks to the Law; this is in accordance with the dictum of Abhdimi bar Hama bar Dosa, viz.: It is written [Deut. xxx. 12], "It is not in heaven," meaning if it were even in heaven, one would have to get it from there, and [ibid. 13]: "Neither is it beyond the sea" implies that even were it beyond the sea, one would have to go after it there. Rabha, however, said: "It is not in heaven" means, that knowledge cannot be found in a man who holds himself as high as heaven; and "Neither is it beyond the sea" means, that knowledge cannot be found in a man who considers his opinions as vast as the sea. R. Johanan said the first statement refers to those who are great in their own estimation, and the last statement to those who ply the seas and are constantly engaged in traffic.

The Rabbis taught: How are the boundaries of a town extended? A town that is oblong remains as it is. A town in the form of a circle is provided with corners. One that is in the form of a square need not be made equiangular. If it was narrow on one side and wide on another it must be made even all around (through the formation of a parallelogram). If a house or row of buildings protruded from one of the walls of the town, a straight line is drawn from the extreme end of such protruding buildings parallel to the wall and thence two thousand ells are measured. If the town was in the form of an arch or a right angle it should be considered as if the entire space enclosed by the arch or right angle were filled with houses and two thousand ells should be measured from the extreme ends.

R. Huna said: If a town was in the form of an arch and the distance between the two ends of the arch was less than four thousand ells, the enclosed space is considered as filled with houses and two thousand ells may be measured from the extreme ends. If the distance was more than four thousand ells, the two thousand ells must be measured from the centre of the arch. What distance should a man have from his house to the end whence the two thousand ells are measured. Rabba bar R. Huna said: "Two thousand ells" and Rabha the son of Rabba bar R. Huna said: "Even more than two thousand ells." Said Abayi: "It seems to me that the latter opinion is correct, because, if the man chose, he could go through all the houses in the arch to that end, then why should he not be permitted to cross over the space between his house and the end of the arch?"

Or if fragments of a wall ten spans high, etc. What is

meant by this? R. Jehudah said: "This means, if there were three partitions without a roof." A question was propounded: How was it if there were two partitions with a roof? Come and hear: These are the things that are counted in together with the town: A monument covering four square ells, a bridge, a mausoleum, a synagogue that has a dwelling for an attendant, a church with a vestry, stables, and barns that have a dwelling attached for the keeper, huts in the field and houses built on islands of a lake, which are not more than seventy and two-thirds ells away from the town. All these are counted in together with the town, and following are the things that must not be counted in with the town: A monument partly demolished on both sides, a bridge, a burying ground without a dwelling on it, a synagogue or church that has no dwelling for the sextons, a stable or barn that has no dwelling for the keeper, a pit, a cavern, a fence, a dove-cot, and a boathouse; all these are not counted in with the town." We see then, that a monument which had been partially destroyed on both sides, must not be counted in with the town? Must we not assume that it still retained its roof? Nay, this refers to a monument that did *not* retain its roof. Of what use is a house built on an island? Said R. Papa: "Those houses are used to unload the utensils of a ship." It is said "a cavern is not to be counted in with the town"? Did not R. Hyya teach that it should? Said Abayi: "R. Hyya refers to a cavern, that has a building above it." If that is the case, why mention the cavern? The building itself must be counted in? Here the meaning is, if a building was above the cavern, no matter how far the cavern extended, it is regarded as a foundation for the house and should be counted in.

R. Huna said: Those who live in huts made of twigs may measure the limit only from their doors (even if there are a number of those that extend for over one hundred ells). Said Hinana the son of R. Kahana in the name of R. Ashi: If in the street where the huts stood there were three courts each containing two ordinary buildings, the huts are given the privileges of a town.

R. Jehudah said in the name of Rabh: Those who dwell in huts and those who travel in the deserts do not enjoy life and their wives and children are not their own. We have also learned the same in a Boraitha: Eliezer the man of Biria said: Those who live in huts are the same as those in a grave and concerning their daughters it is said [Deut. xxvii. 21]: "Cursed be

he that lieth with any manner of beast." Why is this so? Said Ula: Because they have no bathhouses (and when the men go away to some distant bathhouse no one is left to take care of the women). R. Johanan said: "Because, when the women go to take their ritual bath, they are afraid to go alone so long a distance; hence they go in company with other women and are followed by evil men who lead them astray." What is the point of difference between Ula and R. Johanan? If there is a lake in the vicinity, the statement of R. Johanan falls to the ground, but according to Ula even then, the women, if left alone by their husbands, are led to sin.

R. Huna said: "In a town where there are no herbs, a scholar should not live (because herbs are cheap and good food and a scholar can thus live economically)." Shall we assume, that herbs are such a good thing? Have we not learned in a Boraitha, that three things cause much waste, cause a man's body to stoop, and deprive a man of one five-hundredth of his eyesight? Those three things are: coarse bread, newly brewed beer, and herbs? This presents no difficulty: R. Huna refers to onions, garlic, and fine herbs, which are necessary, while the Boraitha refers to bad herbs.

R. Jehudah said in the name of Rabh: In a town that is hilly and where there are many steps to ascend and descend, both man and beast become prematurely aged. Said R. Huna bar R. Jehoshua: "The towns of Bebiri and Benares, two adjoining cities, that had many hills between them caused their inhabitants to become prematurely aged."

The Rabbis taught: "If one comes to make a town square, he must make it as the square of the earth, *i.e.*, the north must be towards the north of the earth, the south towards the south, and his signs shall be: the zodiac of the capricorn in the north and that of the scorpion in the south." Said R. Jose: If he does not understand how to make it as the square of the earth, he should be guided by the equinox. How so? Where the sun rises during the long days and sets during the long days, it is north of the equator, and during the short days, where it rises and sets it is south of the equator, but during the Nissan and the Tishri equinox, it rises half (*i.e.*, directly) east and sets half (*i.e.*, directly) west, as it is written [Ecclesiastes i. 7]: "Going toward the south" during the day, "and turning around toward the north" during the night "the wind moveth round about continually," meaning east and west; at times it goes through them

and at other times it passes them. Said R. Mesharshia: All these rules are of no account, for we have learned in a Boraitha that the sun never rose in the northeast nor set in the northwest and the sun never rose in the southeast nor set in the southwest.

Samuel said: The equinox of Nissan can only take place during one of the four quarters of a day, either at sunrise, sunset, noon, or midnight, and the equinox of Tamuz cannot take place except at one and one-half hours after sunrise or sunset or seven and one-half hours after either. The equinox of Tishri takes place only at three or at nine hours after either sunrise or sunset, and the equinox of Tebeth takes place only four and one-half hours or ten and one-half hours after either sunrise or sunset. There is not more than ninety-one days seven and one-half hours between each equinox, and they occur in the first and second half of the same hour respectively.*

The Rabbis taught: One who comes to measure the city should first make it square in the form of a board. Afterwards he makes another square of the legal distance of two thousand ells also in the form of a board. When he comes to measure the legal limits from the town, he should not commence at the centre of a side because then he would lose the corner, for, if the diagonal distance from one corner to another is two thousand ells the distance from the one side to the opposite will be 1,428 ells. Hence he should make the square two thousand ells from one opposite side to the other, and in that event he will gain four hundred ells on each side. Then the two legal limits together will gain eight hundred ells on each side, and, in consequence, the town together with the limits will gain twelve hundred ells on each side. Said Abayi: "This can be proven by calculating on a city exactly two thousands ells square."

MISHNA: An allowance of seventy and two-thirds ells of space must be made to the town. Such is the dictum of R. Meir; but the sages hold, that such an allowance is to be made

* This is calculated by the ancient astronomers as follows: There are seven planets, which change with every hour; *e.g.*, in the first hour we have the planet Mercury, in the second the Moon, in the third Saturn, in the fourth Jupiter, in the fifth Mars, in the sixth the Sun, and in the seventh Venus. Thus at the end of the 91 days and $7\frac{1}{2}$ hours of the first equinox (of Nissan), if Mercury is in the ascendant the second equinox (that of Tamuz) will fall in the second half-hour of the planet Mercury, the third equinox (of Tishri) will occur in the first half-hour of the Moon, and the last equinox (of Tebeth) will fall in the second half-hour of the Moon, etc.

only if two towns be so close to each other, that each only requires seventy and two-thirds ells to bring them within the legal limits; in that case an allowance is made to both, so that they become as one. Thus also, if three villages form a triangle, and the two outer ones require $141\frac{1}{3}$ ells, a double allowance to bring them within legal distance of each other, the middle one between the two makes all one, so that the three villages become as one.

GEMARA: Whence do we adduce, that an allowance should be made to the town? Said Rabha: Because it is written [Numbers xxxv. 4]: "From the wall of the city and outward," which implies, first leave a part outward and then commence to measure.

"*But the sages hold,*" etc. It was taught: R. Huna said: An allowance should be made to each of the two cities, and R. Hyya bar Rabh said: "Only one allowance is made for both." We have learned in the Mishna, however, that the sages hold, such an allowance is to be made only, etc., whence we see that only one allowance is spoken of and this would be contradictory to R. Huna? R. Huna may say, that by the allowance is meant the law of the allowance, and if the law of allowance is given at all, it should be given to each of the two cities. It seems to us, that the explanation of R. Huna is correct, because further on the Mishna states, that each only requires seventy and two-thirds, *i.e.*, one town requires seventy and two-thirds ells and the other requires seventy and two-thirds ells, hence the law of allowance applies to each of the two.

An objection was made based upon the last clause of the Mishna: If three villages form a triangle and the two outer ones require $141\frac{1}{3}$ ells, the middle one between the two makes all one; thus if there were no middle one the allowance for the two outer ones would not hold good, and this would be contradictory to R. Huna, who says, that the law of the allowance should be applied? R. Huna might reply: It was taught, however, that Rabba in the name of R. Idi quoting R. Hanina said: The Mishna does not mean to state that there must absolutely be three villages in a triangle, but even if the third is some distance off and between the two there is sufficient space which would permit of the third village being placed there, and the distance from that third village to one of the outer ones be $141\frac{1}{3}$ ells, *i.e.*, the quantity of two allowances of seventy and two-thirds ells each, this third village makes the other two as one. Then

Rabha asked of Abayi: "How far must the third village be from the other two, that it may be counted in with them?" and he answered: "Two thousand ells." Said Rabha to Abayi: "Didst thou not say previously, that thou art of the opinion of Rabha bar R. Huna, who said that it may be even more than two thousand ells distant?" Rejoined Abayi: "How canst thou compare the two? In the former instance there were inhabited houses, while here there is only empty space."

Rabha asked Abayi again: "What must the distance between the two outer villages be?" and he answered: "What is the difference? Thou hast heard, that if the village standing at a distance is placed between the two there would be a distance of $141\frac{1}{2}$ ells to each of the outer ones." "According to that," rejoined Rabha, "it would not matter if there were four thousand ells between the two outer ones?" "Yea," answered Abayi, "so it is."

MISHNA: One must not measure the legal distance except with a line exactly fifty ells long, no more and no less; and one must not measure in any manner except from the breast. If during the measurement a deep dale (cleft) or heap of stones is encountered, the line is passed over it and the measurement resumed; if a hillock is encountered, the line is passed over it (also) and the measurement resumed, provided the legal limit is not overstepped while this is being done. If the line cannot be passed over the hillock on account of its height, R. Dostai bar Janai said: I have heard on the authority of R. Meir, that those who make the measurement cut straight through the mountain (in an imaginary sense).

GEMARA: Whence do we adduce that the line must be exactly fifty ells long? Said R. Jehudah in the name of Rabh: It is written [Exod. xxvii. 18]: "The length of the court shall be one hundred ells, and the breadth fifty by fifty," and thus the verse means to say, that the line should be fifty ells. Is this verse not necessary in order to teach us that the excess of fifty ells of length over the breadth should be apportioned so as to make the court seventy ells and four spans square? (See page 73.) If such were the case, the verse could read "fifty and fifty," but from the fact that it reads "fifty by fifty" we assume that both teachings may be adduced.

"No more and no less." It was taught in a Boraitha: "No less," because when the line is taken up (by the surveyor) it may be stretched a trifle (and it should be only fifty); and "no

more," for should it be longer, it might become entangled and be shortened accordingly.

Said R. Assi (according to another version R. Ami): "The line must be made only of Apaskima." What is an Apaskima? Said R. Abba: "A Nargila," and what is a Nargila? Said R. Jacob: "The fibre of walnut-trees."

We have learned in a Boraitha: R. Jehoshua ben Hananiah said: There is nothing better to measure with than an iron chain; but what can be done, when it is written [Zechariah ii. 5]: "There was a man with a measure-cord in his hand." It is written, however [Ezekiel xl. 3]: "There was a man, etc., and a measuring rod." The verse quoted refers to the measurement of the gates of the Temple.

R. Joseph taught: "There are three kinds of cord: One made of rushes, one made of willows, and one made of flax. The first kind of cord was used to tie the red heifer (because it was not subject to defilement and all things used in connection with the red heifer had to be *not* subject to defilement) as we have learned (in Tract Parah): "She was tied with cord made of rushes and was laid on the spot where she was to be burned." The second kind was used for tying a woman who was to stand the bitter water test as we have learned in a Mishna (Tract Sotah): Then an Egyptian rope was tied above her breast (an Egyptian rope was made of willows). The third kind was used for measuring.

"If during the measurement a deep dale, etc., was encountered," etc. From the statement of the Mishna that after passing over it the measurement is resumed, we must assume, that if the surveyor *cannot* pass over it with a line fifty ells long, he must go to a place where it is possible for him to do so, and after passing over it, should resume the measurement at the original place as nearly as possible on a level with the place where he had left off at the other location.

This is identical with the teaching of the Rabbis as follows: "If during the measurement the surveyor come to a cleft, and *can* pass over it with a line fifty ells long, he should do so. If, however, he *cannot* do this, he should go to another place where this would be possible and resume his measurement at the original place as nearly as possible on a level with the place where he had left off at the other location. Should, however, the cleft be sloping so that he can cross over it without difficulty he should measure it by drawing an imaginary line straight across

the cleft and do this successively both up hill and down. If he come to a wall, he must not cut through the wall but must estimate its thickness, and after allowing sufficient distance for it, he should resume his measurement." We have learned, however, that he should cut through it (in an imaginary sense), why do they say that he should estimate its thickness? In the former instance the case referred to is where the wall was impassable, while in this instance the surveyor can circumvene it.

Said R. Jehudah in the name of Samuel: "Under what circumstances are these rules concerning passing over (a cleft) or cutting straight through to be applied? If the line with a weight attached to one end, will *not*, when dropped, reach bottom. If, however, the line *will* reach bottom, the actual measurement of the cleft must be counted." What must the depth of the cleft be in order that it may be passed over? Said R. Joseph: "Even if it be more than two thousand ells deep." According to whose opinion is this teaching of R. Joseph? Have we not learned in a Boraitha, that if the cleft is one hundred ells deep and fifty wide it may be passed over but not if it be more? while the anonymous teachers hold, even if it be two thousand ells deep. Then R. Joseph's teaching coincides neither with that of the first Tana nor with that of the anonymous teachers? The Boraitha refers to a case where the depth of the cleft cannot be sounded with the sounding line, while R. Joseph refers to a case where the sounding line can be dropped straight down. If the sounding line cannot be used, what distance may he go to find another location for measuring? Said Abimi and also Rami bar Ezekiel: "Four ells."

"*If a hillock is encountered,*" etc. Said Rabha: "This refer to a hillock with a base of five ells and a peak of ten spans; but a hillock with a base of four ells and a peak of ten spans should be merely estimated and the measurement resumed."

"*Providing the legal limit is not overstepped,*" etc. What is the reason therefor? Said R. Kahana: In order that it may not be said, that the legal limit commences at the spot where the hillock had already been passed over (*i.e.*, if the hillock was too wide to be passed over in the line of the legal limit and another place had to be selected for passage, it serves as a precautionary measure, in order not to appear as if the legal limit commenced at the point on the other side of the hillock, which, by virtue of its accessibility, had been selected for passage).

"*If the line cannot be passed over the hillock,*" etc. The Rab-

bis taught: "What is meant by cutting straight through the mountain?" The man at the foot of the mountain should hold the line to his breast and the man at the summit should hold it to his feet. Said Abayi: There is a tradition to the effect, that the mountain must not be cut through (measured) except with a line measuring four ells.

Said R. Na'hman in the name of Rabba bar Abbahu: "The law of cutting through the mountains does not apply in the case of the heifer, which must have its neck broken (see Deut. xxi. 1-9), and not to the cities of refuge (see Deut. xix. 2-10; and Numbers xxxv. 6).

MISHNA: The measurement must be undertaken only by one who is an expert (in measuring land). If the legal limit was carried farther to one place than to another, the farther limit is held to. If *one* surveyor carried the limit farther than another, the farther measurement is abided by. Even a bond-man or bond-woman must be credited if testifying, that "Until here is the Sabbath-limit"; for the sages do not intend to enforce a more rigorous observance (of the law) but to make it more lenient.

GEMARA: What is meant by, "the farther limit is held to"? What about the shorter limit? Is that not within the limit? The Mishna must be read: Even the farther limit is also held to.

"*If one surveyor carried the limit farther than another,*" etc. Said Abayi: "Provided the difference in the distance does not exceed the diagonal measurement of the town."

MISHNA: If a town (originally the property) of a single individual, becomes (property) of the public, all the householders residing therein may combine in preparing the Erub. If the town originally was public property and becomes the property of an individual, all the householders must not join in the Erub, unless a number of dwellings outside of the city was not included in the Erub made by the town proper, which number was equal to the new town in Judæa; *i.e.*, containing fifty dwellings. Such is the dictum of R. Jehudah; R. Simeon, however, holds, that it is sufficient if three courts each containing two houses were not included.

GEMARA: The Rabbis taught: What is meant by originally the property of a single individual, and become property of the public? Said R. Jehudah: "For instance, the district of the Exilarch." Rejoined R. Na'hman: "Why dost thou mention the district of the Exilarch, because many people come there

and it thus becomes like public ground; but the seat of government being there, it will serve as a reminder, that there is a law against carrying on the Sabbath? Still even in a place where many Israelites congregate on the Sabbath, even if the seat of government is not there, they will remind each other of the law? Therefore," continued R. Na'hman, "(it is not necessary that the district be the property of the Exilarch) it may be like the district of Nathazai, who owned a whole town."

The Rabbis taught: In a town, originally the property of an individual, which had become public property, containing a wide street, how should an Erub be made? Either a side-beam or a cross-beam must be erected at each end of the street (providing the town was not surrounded by walls) and it is permitted to carry throughout the street. It is not permitted, however, for one half of the town to combine in an Erub (because the city, having at one time been the property of an individual, the other half will prove a bar to those who have combined in the Erub). Either the whole town must combine an Erub, or each entry must make an Erub for itself. If, however, the entire town was at all times public property, and have but one exit, an Erub may be combined for the whole town.

Who is the Tana who holds, that even for the wide street an Erub may be effected? Said R. Huna the son of R. Jehoshua: This is according to R. Jehudah, as we have learned in a Boraitha: "Moreover, R. Jehudah said: 'A man having two houses, one at each end of a wide street, may make a cross or a side beam at each end of the street and is allowed to carry throughout the street,' and the sages rejoined: 'Such an Erub is not sufficient for a wide street.'"

The Master said: "It is not permitted for one half the town to combine an Erub." Said R. Papa: This prohibition refers to an Erub made lengthwise in half the town but in the breadth of half the town (which contained one of the two exits of the whole town) it is allowed.

The Master said: "Either the whole town must combine an Erub or each entry must make an Erub for itself." Why should an Erub not be effected in one half of the town, because the other half might prove a bar? Why should one entry then not prove a bar to another? Each entry may erect a door for itself, which will signify that there is no connection with the others. This is identical with the statement of R. Idi bar Abin in the name of R. Hisda, viz.: If one of the inhabitants of an entry

made a door to his court, he demonstrates thereby that he has no connection with the other inhabitants and consequently does not make the Erub of the others invalid.

"If the town was originally public property and became the property of an individual," etc. R. Zera made an Erub in the city where lived R. Hyya, that included the whole city and did not leave out any part thereof. Asked Abayi: "Why did Master do this? Why did he not leave out a part of it?" Answered R. Zera: "The elders of the city told me, that R. Hyya bar Assi once combined an Erub for the entire city, so I thought that at one time the city was individual property and then became the property of the public." Rejoined Abayi: "The same elders told me, that at one time a pile of dirt blocked one of the entrances so that only one remained; hence R. Hyya bar Ashi made the Erub for the entire city. Now, however, the dirt has been removed and the city never was individual property"; and R. Zera answered: I did not know this.

R. Ami bar Ada of Harphan asked Rabba: "What is the law concerning a town that had one entrance by means of a door and another by means of a ladder?" He answered: "Rabh said, that a ladder is in law accounted the same as a door." Said R. Na'hman to them: "Do not heed him; for thus said R. Ada in the name of Rabh: 'A ladder combines within itself the two uses, that of a door and that of a partition.' The latter if it is on the outside of the city and is hence not accounted as a door and when it stands between two courts it can be accounted as a partition, thus enabling the courts to make separate Erubin, or it can be accounted as a door and both courts may combine in effecting one Erub."

R. Jehudah in the name of Samuel said: "If an entire wall was made of ladders even though it be wider than ten ells, it is nevertheless a lawful partition." R. Brona contradicted R. Jehudah, standing at the wine-cellar of R. Hanina's house: How canst thou say, that Samuel held the ladders to constitute a partition, did not R. Na'hman say in the name of Samuel: "If the people living in attics of courts, which contain balconies, and who are obliged to descend by means of ladders to the court, had forgotten to combine an Erub with the people below, they do not render the Erub of the people below invalid, providing their ladders have apertures at least four spans high?" This is the case if the balconies were not over ten spans high. If the balconies were not over ten spans of what use are the apertures?

If the balconies were provided with railing and ten ells were left vacant and a small door was erected in that vacant space, it signifies, that there is no connection between the inhabitants of the attics and those of the court; hence they do not prove a bar to each other.

The inhabitants of Kakunai came before R. Joseph and asked him to give them a man to effect an Erub for them in their city. He accordingly said to Abayi: "Go and make an Erub for them, but see that it provoke no comment from the college." He went and saw that some houses of the city faced a lake and had no other entrance. "I will make an Erub, but will exclude these houses," said he. Subsequently it occurred to him, that an Erub must not be made for the entire city, at the same time it was possible to do this; with these houses, however (that faced the lake), it was an impossibility. Consequently he desired that apertures be made in those houses facing the streets, thereby making it possible for them to make an Erub and then to exclude them, in which event the Erub for the entire city would be valid. Then he concluded that even those apertures were unnecessary, because Rabba bar Abbahu made an Erub for the entire city of Mehuzza, which was composed of several rows of entries and between each row there was a ditch used for the storing of kernels of dates to be used as fodder. He made an Erub for each row and permitted the carrying of things in each entry and from one entry into another without erecting either cross or side beams. He did this on account of the ditches between the rows, which ditches prevented crossing over from one row to the other and the town having been originally public property and subsequently having become the property of an individual, in which case part of the town must be excluded from participation in the Erub, he held that by virtue of the inaccessibility of one row to the other on account of the intervening ditches, one row became the excluded part to the other, and *vice versa*.

Suddenly it occurred to him again, that the rows of entries might have had protruding roofs, which would make communication with each other possible, hence they were enabled to make an Erub; but in the case of those houses that could not make an independent Erub, he again concluded that apertures were necessary. Finally, however, he recollected, that Mar the son of Pipidatha of Pumbaditha made an Erub for the entire city of Pumbaditha and merely excluded his straw-shed underneath the

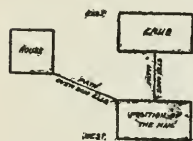
city. Hence he again concluded, that no apertures for the houses were necessary. In conclusion he said: "I see now, after all this trouble, why my master cautioned me against provoking the comment of the colleges."

"*R. Simeon, however, holds, that it is sufficient, if three courts,*" etc. Said R. Hama bar Guria in the name of Rabh: "The Halakha prevails according to R. Simeon." R. Itz'hak, however, said, that one house in one court is sufficient.

Asked Abayi of R. Joseph: "Whence does R. Itz'hak adduce his statement? From a tradition or an opinion?" Answered R. Joseph: What is the difference? (The Halakha prevails according to R. Simeon?) Rejoined Abayi: Shall we learn the Gemara as we do a song?

MISHNA: Should a man (on the eve of Sabbath) be at the east of his domicile and say to his son: "Place my Erub towards the west," or being at the west of his domicile say to his son: "Place my Erub towards the east": if the distance from the place where he stands to his domicile be within two thousand ells and to his Erub farther than that, he must take his Sabbath-rest at his domicile, but must not take it where his Erub is deposited; if the distance to his Erub, however, be within two thousand ells, and to his domicile farther than that, he must take his Sabbath-rest where his Erub is placed and not at his domicile. If a man has deposited his Erub within the limits (allowance of seventy and two-thirds ells) of a town, he has (legally) accomplished nothing and it counts for nothing; if he, however, deposited the Erub outside of the legal limit, be it but a single ell, whatever ground he gains in one direction, he loses in the opposite direction.

GEMARA: What is meant by "towards the east"? "Towards the east of his son" said R. Itz'hak, "and towards the west also of his son." Rabba bar R. Shila, however, says, that both "towards the east" and "towards the west" refer to the house, but the question will arise how will it be possible for the house to be farther than the Erub, because if he told his son to make an Erub



there, the son must have stood between the house and the Erub? In this case, the house was diagonally opposite the place where the son stood while the Erub was directly opposite (as shown in illustration).

"If he, however, deposited the Erub outside of the legal limit,"

etc. Is it possible to assume, that he really overstepped the legal limit? Read: "If he placed the Erub outside of the seventy and two-thirds ells allowed the town."

"*Whatever ground he gains in one direction, he loses in the opposite.*" He loses only what he gains, no more? Have we not learned in a Boraitha: "If he placed his Erub within the allowance (of seventy and two-thirds ells) of the city, he has accomplished nothing and it counts for naught; if, however, he placed his Erub outside of such allowance even one ell, he loses (his right to) the whole city, because the measure of the city will be counted to him in the legal limit effected by the Erub?"

This presents no difficulty. According to the Boraitha, he loses the whole city only when the two thousand ells of his limit terminate in the centre of the city; but if they terminate at the end of the city, which is the case in our Mishna, he loses nothing, as R. Idi said in the name of R. Jehoshua ben Levi: If he measured the limit and it terminated in the *centre* of a town, he has only half the town; but if it terminated at the *end* of the town, the whole town becomes as four ells and he may complete his entire limit of two thousand ells outside of the town." R. Idi said, however: "This is merely a prophetic assertion! For what is the difference whether it terminate in the centre of the city or at the end!" Said Rabha: "This is by no means a prophetic assertion. Thou wilt learn this in the succeeding Mishna."

R. Joseph said in the name of Rami bar Abba quoting R. Huna: "If a town was standing on the steep banks of a lake and there was a partition made on the brink of the banks four ells high, the measurement of the legal limits may be commenced from that partition. If there was no partition, however, the measurement must be commenced from the entrance of the house (nearest the lake)." Said Abayi: "Why dost thou require in this case a partition four *ells* high? Generally four *spans* are sufficient!" Because usually, no fear is entertained as to the use of the place, while in this case there is constant fear of falling over the banks (hence that place cannot be taken into consideration and the measurement must be made from the houses).

Said R. Joseph: Whence do I adduce this teaching? From the following Boraitha: "Rabbi permitted the inhabitants of Gadar to descend to Hamtan but forbade the people of Hamtan to ascend to Gadar." Why did Rabbi decree thus? We must

assume, because the inhabitants of Gadar (who lived above the people of Hamtan on the slope of a mountain) made a partition at the foot of their city while the inhabitants of the city of Hamtan did not make a partition at the foot of their city; hence Gadar which had a partition was safe from falling, and the legal limit, which was measured from any part of the city included Hamtan, but the people of Hamtan, which had no partition and was consequently not safe, could measure their legal limits only from their houses and thus it did not include the city of Gadar.

When R. Dimi came from Palestine, however, he assigned a different reason for the above Boraitha, saying: "Rabbi decreed thus, because the Gadarites would maltreat the Hamtanites; hence he prohibited the latter to ascend to Gadar on a Sabbath." Why on Sabbath, why not also on a week-day! Because on Sabbath there is more drunkenness (and in consequence more brutality). Why did he then permit the Gadarites to descend to Hamtan? Cannot they maltreat the Hamtanites even there? Because a dog that has no home will not bark even in seven years (meaning that in their own homes the Hamtanites could better protect themselves). Is there not danger, however, that the Hamtanites will maltreat the Gadarites? The Hamtanites would not dare do this (because they were in the minority).

R. Saфра said: There is a different reason for the Boraitha, viz.: The city of Gadar was built in the form of an arch and the two ends of the arch were more than four thousand ells apart. We have learned in connection with this that the legal limits must be measured from the houses of the individuals; hence when the inhabitants of Gadar measured their limit, it included the city of Hamtan, but when the people of Hamtan, who were opposite the space of the arch, measured their limit, it terminated in the empty space between the two sides of the arch, and that space being over four thousand ells, could not be counted as part of the city.

R. Dimi bar Hinana said: (There is another reason for the Boraitha.) The city of Gadar was a large city whereas Hamtan was a small town and the laws concerning this will be explained in the following Mishna.

MISHNA: The inhabitants of a large town may traverse the whole of a small town (within or adjoining their legal limits); but the inhabitants of the small town must (not) traverse the

whole extent of the large town. How then? If an inhabitant of the large town place his Erub in the small town, or an inhabitant of the small town place his Erub in the large town, each may traverse either town and proceed two thousand ells beyond its boundaries. R. Aqiba said: "One has only the right to proceed two thousand ells from the place where he deposited his Erub." Said R. Aqiba to the sages: "Will ye not admit, that in the case of one who deposits his Erub in a cavern, that he has not the right to proceed further than two thousand ells from the place where he has deposited his Erub?" They replied: "True; but when is this the case? If there are no dwellings in the cavern; but if there are dwellings within it, he may not only traverse the whole extent of the cavern, but also proceed two thousand ells outside of it." (Hence, it may be seen) that the ordinance is less rigid as to the interior of a cavern, than to the space above it.

Concerning one who measures (previously mentioned) he is only allowed to carry the legal limits two thousand ells from the place whence he started, even though the end of his measurement terminate in a cavern.

GEMARA: Said R. Jehudah in the name of Samuel: If one took his Sabbath-rest in an abandoned city, he may traverse the entire extent of the city and two thousand ells besides; but if he deposited his Erub in that city, he only has two thousand ells from that Erub. R. Elazar, however, said, whether he merely took his rest there or deposited his Erub, he may traverse the entire extent of the city and two thousand ells outside of it.

An objection was made based upon the statement of R. Aqiba addressed to the sages: "Will ye not admit, that in the case of one who deposits his Erub in a cavern, that he has not the right to proceed further than two thousand ells from the place where he has deposited his Erub?" and their reply: "True; but when is this the case? If there are no dwellings in the cavern." Thus we see, that if there are no dwellings within it, the sages agree with R. Aqiba? (How then can R. Elazar say, that one may traverse the whole extent of the city and two thousand ells beyond?) By the statement "if there are no dwellings in the cavern" the sages mean to say, if there is no *room* for dwellings in the cavern.

Mar Jehudah observed that the inhabitants of Mabrachta placed their Erub in the synagogue of the city of Agubar, so he

said to them: "Why do ye not place the Erub a little further? Ye will have more space to the two thousand ells?" Said Rabha to him: Thou quarreller! (Thou disputest the opinion of the sages!) Concerning the law of Erubin no attention is paid to R. Aqiba (because it had been decided long ago, that the more lenient decrees concerning Erubin prevail).

CHAPTER VI.

REGULATIONS CONCERNING THE ERUBIN OF COURTS AND PARTNERSHIPS.

MISHNA: To one who dwells in the same court with a Gentile, or with one who does not acknowledge the laws of Erub, the latter prove a bar (to his carrying in the court). R. Eliezer ben Jacob, however, said: "At no time can such a prohibition be caused, unless there be two Israelites, who prevent each other."

R. Gamaliel related: "It happened that a Sadducee dwelt with us in one alley (entry) in Jerusalem, and my father said to us (on the eve of Sabbath): 'Make haste and bring all the vessels into the alley, lest the Sadducee bring out his, and thus make it unlawful for you to carry out yours.'" R. Jehudah related the same circumstance with a variation in the language, viz.: "Make haste and do what you require done in the alley, lest he come out and make it unlawful for you to do so."

GEMARA: Abayi and R. Hinana, both sons of Abin, were sitting along with Abayi. The two brothers said: "The Mishna would be correct according to the opinion of R. Meir, who holds that the dwelling of a Gentile as far as the laws of Erubin are concerned is regarded as a dwelling; but what about R. Eliezer ben Jacob? If he regards the dwelling of a Gentile as a dwelling, then it should prove a bar even to one Israelite, and if he holds that it is not regarded as a dwelling, then it should not interfere even with two Israelites." Said Abayi to them: "Does then R. Meir hold, that the dwelling of a Gentile is regarded as a dwelling where the laws of Erubin are concerned? Have we not learned in a Boraitha, that R. Meir holds the dwelling of a Gentile to be like a vacant house, where things may be moved at will? Therefore I say, All agree that the dwelling of a Gentile is not considered as a dwelling as far as Erubin are concerned and that the intent of the Mishna is simply to prevent the Israelite from falling into the ways of the Gentile and disregard the Sabbath entirely, and to this end R. Meir holds, that a

Gentile proves a bar even to one Israelite, but R. Eliezer ben Jacob maintains, that it is so rare an occurrence for one Israelite and one Gentile to live in one court, that such a precaution is in that case superfluous."

The text of the above Boraitha is as follows: "The dwelling of a Gentile is, as far as the laws of Erubin are concerned, to be regarded as a vacant house and things may be moved and carried to and from his house and the court; but if an Israelite also dwelt in the same court, the Gentile proves a bar to the Israelite." Such is the dictum of R. Meir; R. Eliezer ben Jacob, however, said, that the Gentile does not interfere, unless there are two Israelites who prevent each other."—Have we not learned in our Mishna that if one dwells in the same court with a Gentile, the Gentile proves a bar? This presents no difficulty: The Mishna refers to the Gentile who is on the spot, while R. Eliezer ben Jacob refers to one who is not at home.

What does R. Eliezer mean to express? Does he hold, that a dwelling without the occupant is also a dwelling, then he should state, that even one Israelite is prevented by it; if he holds, that a dwelling without its occupant is not considered a dwelling, then why does he mention a Gentile, he could say, if there be two Israelites and one is absent from home, he does not prove a bar to the other? Nay; a dwelling without its occupant is not considered a dwelling; but in the case of the Israelite who was absent, if he had proved a bar when at home, the precaution is also enforced when he is not at home, but in the case of a Gentile, no such precaution is necessary for the reason, that he himself does not prove a bar to the Israelite and his interference is merely due to the fact that the Israelite might fall into his ways and disregard the Sabbath. When the Gentile is absent, however, such apprehension does not exist.

If the Gentile is absent he does not prevent the Israelite? Have we not learned in a Mishna, that "if a person quits his house, and he goes to take his Sabbath-rest in another town, whether he be a Gentile or an Israelite, he proves a bar to the other inmates of the court, such is the decree of R. Meir"? This refers to a case of where there is fear that the person will return on the same day.

R. Jehudah said in the name of Samuel: "The Halakha prevails according to R. Eliezer ben Jacob." R. Huna, however, said: "It is customary to hold to the opinion of R. Eliezer, *i.e.*, it is not taught in the colleges that the Halakha prevails

according to R. Eliezer ben Jacob, but when a man asks concerning this law, he may be told to follow that dictum." R. Johanan however said: "The people act in accordance with R. Eliezer's decree, but it should not be decided so when the question arises."

Abayi asked R. Joseph: "It is known to us, that all the Mishnaoth taught by R. Eliezer ben Jacob are clean and thorough. Here also R. Jehudah said in the name of Samuel, that the Halakha prevails according to R. Eliezer ben Jacob. Now then, if a disciple of a certain master live in the same town as his master and is asked concerning a Halakha established by R. Eliezer ben Jacob (which is therefore correct) may he decide it himself or must he as usual refer the case to his master?" R. Joseph answered: "R. Hisda (who was a disciple of R. Huna) would not even decide the question whether eggs may be eaten with kutach (a dish made principally of milk) as long as R. Huna was living."

R. Jacob bar Abba asked Abayi: "May a disciple decide in the place where his master resides a Halakha, contained in the scrolls of Fast-days?" Abayi replied: R. Joseph decided this question as stated above.

R. Hisda *did* decide legal questions, during the lifetime of R. Huna, in Khafri.*

R. Hamnuna † decided questions in the city of Hartha, which belonged to Argaz in the days when R. Hisda lived. (Hartha was not far from Pumbaditha, the residence of R. Hisda.)

Rabhina would examine the slaughtering-knives in Babylon during the lifetime of R. Ashi (who was the head of the college). R. Ashi asked him: "Why does Master do this?" Rabhina answered: "Did not R. Hamnuna decide questions in Hartha during the lifetime of R. Hisda?" Said R. Ashi to him: "On the contrary! We have learned, that R. Hamnuna did *not* do this." Rejoined Rabhina: "We have learned both, that he did and that he did not, and the case seems to be thus: As long as R. Huna the master of R. Hisda lived, R. Hamnuna did not decide any questions, but upon the death of R. Huna when R.

* Rashi states, that Khafri was a town near Pumbaditha, but in our opinion Khafri is the plural of Khfar—Hebrew for village—and it seems that R. Hisda decided legal questions in the villages where the inhabitants could not reach R. Huna (Tosphath).

† This R. Hamnuna is not to be confounded with the disciple of Rabh previously mentioned.

Hisda became the head of the college, R. Hamnuna began to decide questions also, because he was virtually a disciple (and comrade of R. Hisda and I am also a disciple comrade of Master."

Rabha said: "If a slaughtering-knife is brought to a young scholar for examination, he may examine it, providing he intends to use some of the meat himself."

Rabhina* came to the city of Mehuzza (and stopped at an inn). The inn-keeper brought a slaughtering-knife to him for examination, and Rabhina told him to take it to Rabha. Said the inn-keeper: "Dost thou not hold with Rabha, that a young scholar may examine a slaughtering-knife if he intends to use the meat himself?" Rejoined Rabhina: "Yea; but the meat is thine and I merely buy the meat of thee as others do."

R. Elazar of the city of Hagronia and R. Abba bar Tachlipha (R. Aha) were the guests of R. Aha the son of R. Iqua in the city presided over by R. Aha bar Jacob. A calf, which was the third of its mother, was to be prepared and the slaughtering-knife was brought to them for inspection. Said R. Aha bar Tachlipha: "Must we not respect the elder (meaning R. Aha bar Jacob)?" Said R. Elazar to him: "Thus decided Rabha: A young scholar may examine the slaughtering-knife if he intends to use the meat himself." Accordingly R. Elazar examined the knife but was afterwards punished for it.

Why was R. Elazar punished for it? Rabha had really allowed it? Because R. Aha bar Jacob was an exceptionally wise and extremely old sage.

Rabha said: A disciple has no right to decide questions of law. If, however, he sees a person committing a prohibited act, he may even in the presence of his master correct such a person.

Rabhina while in the presence of R. Ashi (his master) observed a man tying an ass to a tree on Sabbath. He admonished him and told him that it was not allowed; but the man paid no attention to him, whereupon Rabhina said to him: "Thou art under a ban for this." Then he (Rabhina) said to R. Ashi: "Can this action of mine be construed as disrespectful to thee because it was done in thy presence?" R. Ashi answered: "It is written [Proverbs xxi. 30]: 'There is no wisdom nor understanding nor counsel against the Lord,' and that means, where the honor of

* This Rabhina is also not to be confounded with the Rabhina previously mentioned.

the Lord is concerned, the respect due a teacher is not to be considered."

Rabha said: "If a disciple decide a point of law in the presence of his master, it is considered as a capital offence; but if he does this in the absence of his master while the master is still in the same city, it is not a *capital* offence, but is nevertheless prohibited." Zera said in the name of R. Hanina: It is not a capital offence, but he is nevertheless called a sinner, as it is written [Psalms cxix. 11]: "In my heart have I treasured up thy saying, in order that I may not sin against thee." (This signifies that if one did not treasure up his knowledge but uttered it in the presence of his master, he commits sin.)

R. Hamnuna propounded a contradictory question to the above verse, viz.: It is written [Psalms xl. 10]: "I announce thy righteousness in the great assembly," and himself explained it by saying: "The former verse was proclaimed by David when Ira the Yairite, who was his master, was still living and the latter when Ira was dead."

R. Abba bar Zabhdā said: "He who sends his gifts to one particular priest to the exclusion of all others brings famine into the world, as it is written [II Samuel xx. 26]: "And Ira the Yairite was a priest unto David." Why a priest unto David? Was he not also a priest to the rest of Israel? The inference then is, that David presented him with all his gifts and immediately following this verse, it is written [ibid. xxi. 1]: "And there was a famine in the days of David three years."

R. Elazar said: A disciple who decides a point of law in the place of his master, if intrusted with a position of importance, is eventually deposed, as it is written [Numbers xxxi. 21-24] that Elazar the priest quoted a law and although he quoted it in the name of Moses, still he was deposed from office on that account; for although Joshua was ordered to stand before Elazar [Numbers xxvii. 21], we do not find one instance where Joshua ever availed himself of Elazar's services.

R. Levi said: He who decides a point of law in the presence of his master will die childless, for it is written [Numbers xi. 28], that Joshua, the son of Nun said, "My lord Moses, forbid them," and [Chronicles vii. 27] it merely states, "Now his son, Jehoshua his son," whence we see that Joshua had no children.

There was an entry in which a man by the name of Lachman bar Risthak resided. He was asked to rent his right to the

ground occupied by him to the other inmates; but he would not do this. So the matter was brought to Abayi for decision and he told them as follows: "All of you, resign your rights to your grounds to one man in the entry and thus it will constitute a case of where one Israelite and one Gentile occupy the same entry; when one Gentile occupies the same grounds with one Israelite he does not interfere with the Israelite." How can this remedy us? Why was it decreed, that one Gentile does not interfere with an Israelite, because it is of rare occurrence, that they should occupy the same court, but in our case it is different. We all live there? Said Abayi: "In your case there is also an unusual occurrence; for it seldom happens, that all the inmates of one entry should resign their rights to one man."

Subsequently R. Huna the son of R. Jehoshua related this statement of Abayi to Rabha. Said Rabha: "If so, then the entire law of Erubin was made void in that entry." Nay; they made an Erub between themselves also. Rejoined Rabha: "This is still worse. In that case it will be said that an Erub may be made where a Gentile lives." Answered R. Huna: "It will be proclaimed, that the carrying is not done on account of the Erub, but because every inmate has resigned his right to the ground to one man and hence it is private ground." "To whom will ye proclaim this? To the children?" continued Rabha. "I have a better plan. Let one man go and ask Lachman bar Risthak to permit him to deposit something in his (Lachman's) yard, which will then be considered as rented for an entire year, and R. Jehudah said in the name of Samuel, that if ground had been rented by an Israelite from a Gentile or *vice versa* for one year or even for one season when the crops are harvested, in fact if any dealings at all have been had on this order with the Gentile, an Erub may be placed in the entry where he lives with impunity."

Abayi asked of R. Joseph: "How is it, if there are several who had rented apartments from a Gentile and one of them forgot to make an Erub. Would he prove a bar to the others or not?" Answered R. Joseph: "The statement of R. Jehudah in the name of Samuel was made in order to make the law more lenient and not to make it more rigid."

When R. Na'hman heard the dictum of R. Jehudah in the name of Samuel quoted above, he said: "How fine is this Halakha!" Then he heard another dictum of R. Jehudah in the name of Samuel stating, that one who had imbibed a quarter of

a lug of wine, must not decide any legal questions. Said R. Na'hman: "This Halakha is preposterous! I know that my head is not quite clear until I drink a quarter of a lug of wine." Said Rabba to him: "Why should master say this? Has he not heard the dictum of R. A'ha bar Hanina, viz.: it is written [Proverbs xxix. 3]: 'He that keepeth company with harlots wasteth his wealth,' and this means, that one who declares one Halakha to be fine and another to be bad loses the beauty (wealth) of the Thorah." Answered R. Na'hman: "Thou art right. I shall do this no more."

Rabba bar R. Huna said: One who is tipsy should not pray; but if he had done so his prayer is nevertheless acceptable. One who is intoxicated, however, and prayed, his prayer is considered as a blasphemy. What is meant by tipsy? If a man were compelled to speak to the king and had still sense enough to do so, he is merely tipsy; but one who would not be able to do this is considered intoxicated.

Said Rami bar Abba: "One who after drinking had walked a mile or slept a little is again considered sober." Said R. Na'hman in the name of Rabba bar Abbahu: This is the case if he had drunk only a quarter of a lug of wine; but if he drank more, then the walk tires him still more, and the interrupted doze inebriates him still more.

Will a walk of one mile then neutralize the effects of the wine? Have we not learned, that Rabbon Gamaliel while travelling at one time rode upon an ass from the city Akhu to Khazib and was followed by R. Ilayi. R. Gamaliel noticed some loaves lying on the road, so he said to Ilayi: "Take the loaves up," and meeting a Gentile later said to him: "Mabgai, take the loaves away from Ilayi." Ilayi then asked the Gentile: "Whence art thou?" and he answered: "From the cities of Burganin." "What is thy name?" asked Ilayi again. "I am called Mabgai," was the answer. "Dost thou know R. Gamaliel?" was the next question, "or does R. Gamaliel know thee?" "Nay," answered the Gentile. Thus it is obvious, that R. Gamaliel knew the name of the Gentile by inspiration [and three things may be deduced from his actions, viz.: "Firstly, that bread must not be passed by (but should be gathered up); secondly, that we must be guided by the majority of wayfarers (*i.e.*, on account of the majority of wayfarers being Gentiles, the bread is presumed to belong to them and hence R. Ilayi was told to give it to the Gentile); and thirdly, that leavened bread

belonging to a Gentile, even if remaining over from the Passover, may be made use of by Israelites after the Passover.”]

Upon his arrival at Khazib, R. Gamaliel was asked by a man to nullify a vow. Said R. Gamaliel to his companions: “Have we drunk a quarter of a lug of Italian wine?” and they answered: “Yea, we did.” “Then,” quoth R. Gamaliel, “let us walk on, the man following us until the effects of the wine wear off,” and they walked on for three miles. When they came to the steps leading up to the city of Tyre, R. Gamaliel dismounted, wrapped himself in a robe, sat down and nullified the man’s vow, and from these actions we have learned many things; namely: “A quarter of a lug of Italian wine inebriates a man; when a man is inebriated, he must not decide any legal questions; a walk neutralizes the effects of wine; and a vow must not be nullified while riding, standing, or walking, but in a sitting position.”

Thus we see, that a three miles’ walk is required to destroy the effects of wine, how can it be said, that one mile is sufficient? In a case of inebriation through Italian wine it is different, because that wine is very strong, but for ordinary wine a walk of one mile is all that is necessary.

The master said: “One must not pass by bread.” Said R. Johanan in the name of R. Simeon ben Jochai: This was said in the earlier generations when the daughters of Israel had not yet resorted to witchcraft, but in the latter generations when they began to practise it, bread may be passed by, lest it be bewitched.

We have learned in a Boraitha: Whole loaves of bread may be passed by, because they may be bewitched, but pieces of bread should not, as there is no fear of their being bewitched.

R. Shesheth said in the name of R. Elazar ben Azariah: “I could exempt the entire world from divine judgment since the destruction of the Temple to the present day; for it is written [Isaiah li. 21]: “Therefore, hear now this, O thou afflicted, and drunken, but not with wine.” (Hence if all the world is drunken, they should not be judged.)

An objection was made: “We have learned, that a drunken man’s purchase is a valid purchase, his sale is a valid sale; if he has committed a capital offence, he should be executed; if he committed a crime involving the punishment of stripes, he must be given the stripes. The rule is, that he is in all respects considered as a sober man with the exception that he is absolved

from prayer." R. Shesheth means to say by stating that he can absolve the entire world from divine judgment, that he can exempt the world from the judgment concerning their prayers. Said R. Hanina: All this is said concerning a man whose drunkenness does not equal that of Lot's, but if it is of the degree of Lot's drunkenness, he is exempt from all judgment.

R. Hyya bar Ashi said in the name of Rabh: "One whose mind is not thoroughly at ease must not pray, as it is written: "In his affliction shall he not judge." *

It was the custom of R. Hanina to omit saying his prayers on a day when he was in a bad humor, and Mar Uqba would not take his seat on the judge's bench on a day when a hot south wind would blow, saying, that it was too hot to judge with a clear mind. R. Na'hman bar Itz'hak said: When a Halakha is to be decided by a man, his head should be as clear as it is on a day when a north wind which drives away all dark clouds is blowing and the sky is clear and the weather fine.

Abayi said: "When my mother would tell me to hand her some kutach, it so confused me, that I could not study that whole day." Rabha said: "If a flea bit me, I could no longer learn."

The mother of Mar, the son of Rabhina, made her son seven suits of clothes, one for each day of the week.

R. Jehudah said: "The night was made only for sleep." R. Simeon ben Lakish, however, said: "The moon was made only in order to facilitate study at night."

R. Zera was told that all his conclusions were very sagacious, and he replied, that they were all studied during the day.

The daughter of R. Hisda said to her father: "Why does Master not sleep a while?" and he answered: "Very long days will yet come, when study will be impossible" (meaning the days in the grave).

R. Na'hman bar Itz'hak said: "We are all day-laborers." R. A'ha bar Jacob would borrow hours from the day and repay them at night.

R. Eliezer said: One who travelled on the road should,

* This verse is not to be found in the entire Bible. Rashi, however, says that it may be found in the part of the Apocrypha called Ben Sira, but to our knowledge it cannot be found even there. Tosphath says, that a number of verses cited in the Talmud are to be found in Ben Sira, while quite a number cannot be found anywhere in the Scriptures or in the Apocrypha. Concerning the above verse, Tosphath states, that it should read as quoted in Job. xxxvi. 19.

upon his return, not recite his prayers for three days, as it is written [Ezra viii. 15]: "And I gathered them together to the river that runneth into the Ahava, and we encamped there three days: and I looked about among the people." (Which signifies, that one should deliberate for three days and then pray.)

The father of Samuel when on the road would not pray for three days. Samuel himself would not pray in a room where there was any beer, saying, that the odor of the beer confused him. R. Papa would not pray in a house where there was Harsena (a dish made of fish and vinegar) saying, that the odor disturbed him.

R. Hanina said: A man who is angry with another and when under the influence of liquor can be persuaded to a reconciliation possesses one of the qualities of his Creator, as it is written [Genesis viii. 21]: "And the Lord smelled the sweet savor," etc.

R. Hyya said: "One who drinks wine and is not excited thereby, has some of the qualities of the seventy sages in the days of Moses." The inference of R. Hyya is based upon the word Yaïn (wine), which according to the Hebrew method of counting, namely, Yod = 10 and another Yod = 10 and Nun = 50, altogether 70; and also upon the word Sod (secret) Samach = 60, Vav = 6 and Daled = 4, altogether 70; hence when the wine enters, the secrets escape and the man who does not become excited through wine and can retain his secrets, possesses the wisdom of the seventy sages.

R. Hanan said: "Wine was created only to comfort the mourners and to pay the wicked their reward for any good they may have done, on this earth, as it is written [Proverbs xxxi. 6]: "Give strong drink unto him that is ready to perish, and wine unto those who have an embittered soul." (By "one that is ready to perish," is meant the wicked and by "those who have an embittered soul," are meant the mourners.)

R. Hanin bar Papa said: A house where wine does not flow like water cannot be classed among those that are blessed, as it is written [Exod. xxiii. 25]: "And he will bless thy bread and thy water." The bread referred to is that which can be bought with the proceeds of the second tithes and the water which cannot be bought with such money really means wine. If, then, wine is so plentiful in the house, that it flows like water, the house is counted among the blessed.

R. Ilayi said: By means of three things a man's character

may be ascertained: "By his wine-cup, by his purse, and by his anger," and others say also by his play (for money).

R. Jehudah said in the name of Rabh: There was a case, where an Israelite and a Gentile occupied an inner court and another Israelite occupied the outer court and it was referred to Rabbi for decision. He decided that the outer court must not be used to carry therein. It was then referred to R. Hyya and he decided likewise.

Rabba and R. Joseph both sat in the presence of R. Shesheth, when he finished his lecture, and R. Shesheth concluded by saying, that Rabh decided the above Halakha in accordance with the opinion of R. Meir. Rabba shook his head. Said R. Joseph: Is it possible, that two such great men (as R. Shesheth and Rabba) should be mistaken? If Rabh's dictum were according to R. Meir, why was it necessary to state, that the outer court was occupied by an Israelite? (R. Meir holds, that even one Gentile and one Israelite are sufficient to make it unlawful to carry in one court.) If we assume, that Rabh merely related the circumstance as it occurred, without making a decision, is it not a fact that when Rabh was asked whether, if the Gentile was at his home, the Israelite may carry from the inner court to the outer, he answered that he may, hence we see that the Gentile does not prevent the Israelite occupying the same court from carrying therein; but that the two Israelites prevent each other. Shall we then assume, that Rabh held in accordance with R. Eliezer ben Jacob? Why should it be prohibited for the Israelite to carry from one court to the other? Further on we shall learn, that, according to R. Aqiba, a foot (meaning a man) which is allowed to carry in its place cannot interfere with the right of another place (and in this case each Israelite may carry in his own court, for one of them has the court to himself and the other has but one Gentile in his court, who, according to R. Eliezer ben Jacob, does not interfere with his right to carry), why then should it be prohibited for them to carry between the courts? It might be then, that Rabh holds with R. Aqiba, who says, that a foot which is allowed to carry in its own place nevertheless interferes with the right of another place, then why should the Gentile be mentioned? Each Israelite will prevent the other?

Said R. Huna, the son of R. Jehoshua: It may be assumed that Rabh agrees either with R. Eliezer ben Jacob or with R. Aqiba; but in this case the two Israelites combined in an Erub,

and on account of the interference of the Gentile, he prohibited both.

Resh Lakish and the disciples of R. Hanina met in an inn where lived two Israelites and a Gentile, who rented his place from another Gentile. The tenant was not at home but the owner was. The question then arose whether the place of the tenant could be rented from the owner for the Sabbath. Where the tenant had a perfect lease and could not be dispossessed for that day, it is entirely out of the question. If, however, the tenant's lease was conditional, *i.e.*, if the owner could at any time dispossess him, the question arises whether, because of the fact, that he had not yet been dispossessed the tenant retains his right to the place and it cannot be rented, or from the fact, that it is optional with the owner to dispossess the tenant at any time, the place may be rented.

Resh Lakish said: In the meantime, let us rent the place, and afterwards, when we come to our sages in the South, we will ask their opinion. Subsequently, when they came to R. Ephes and asked him, he told them that they had done rightly.

R. Hanina bar Joseph, R. Hyya bar Abba, and R. Assi met at an inn, the proprietor of which was a Gentile and who arrived on the Sabbath. The question then arose, whether his place could be rented from him for the Sabbath or not. If renting a place is equal to making an Erub, then, of course, it would not be permitted on Sabbath, but if renting a place was merely the resigning of it by one man to another, then it may be done, because that is allowed *on Sabbath*. R. Hanina advised renting it but R. Assi objected. Said R. Hyya bar Abba to them: Let us depend upon this elder (meaning R. Hanina) and rent it and then we will ask R. Johanan. When they asked R. Johanan he told them, they had done what was right.

The men of Neherdai when hearing of this were surprised, saying: "Did not R. Johanan say at another time, that 'renting a place for the Sabbath was equivalent to making an Erub,' hence, as the Erub must be effected on the preceding day, the renting must be done likewise." Nay; R. Johanan means to state that as an Erub may be effected with anything, no matter how little in value, a place may also be rented for any amount, be it ever so small; and as one man may combine an Erub for five others occupying the same court, so may one rent also for others.

Samuel said: "There is no such thing as resigning the right

of one court to another court, nor resigning the right to the space of a ruin. (This signifies, that if two courts opened into an entry or into the street and besides had a door between them, there is no necessity for them to combine an Erub, and, in consequence, they are not benefited if the right of one court is resigned to the other.) And as for a ruin, it means, that if there were two houses opening into a ruin between them, neither can use the ruin, unless they combine an Erub; but the space enjoyed by each cannot be resigned by one to the other. R. Johanan, however, said that both in the case of the court and of the ruin the right to the space may be resigned by one to the other.

It was necessary for us to be told of both instances wherein they differ; for if we had been told, that Samuel only prohibited the resigning of the space by one court to the other, we might have assumed, that he did so because each court had a right in itself without combining a joint Erub, but as for a ruin, he might have held, that as an Erub must be effected by the two houses on each side, if the use of the ruin is desired, the resigning of the space was *permitted*. If the difference concerning the ruin only were related, it might be said, that R. Johanan permits the resigning of the space of the ruin only; because an Erub must be effected by the houses desiring its use, whereas in the case of the court, he agrees with Samuel. Hence both instances are quoted.

Abayi said: The prohibition of Samuel regarding the resigning of the space by one court to another refers only to two courts that had a door between them. If, however, one court was contained within the other and did not have a separate entrance to the street, they may mutually resign their space, because they are bound to combine an Erub. Rabha said: In such a case, they at certain times may do so and at other times they must not (and this will be explained at the end of this chapter).

When R. Hisda met R. Shesheth his lips would tremble; for knowing that R. Shesheth was so well versed in Mishnaoth and Boraithoth, he was afraid to render a decision lest R. Shesheth would contradict him with another Mishna or Boraitha. On the other hand R. Shesheth's whole body would tremble when he met R. Hisda, for knowing that the latter was very shrewd, he was afraid of R. Hisda's sagacity.

R. Hisda propounded the following question to R. Shesheth:

" If there were two houses on each side of a wide street (public ground) and some Gentiles made a partition around the street on the Sabbath, what is the law ? According to those who maintain, that it is not allowed for one court to resign its space to another, there is no question ; because if the two courts had desired to make an Erub on the preceding day they could have done so and still they are not allowed to resign their spaces to each other ; so much the more in our case, where the two houses could not have combined an Erub on the preceding day on account of the intervening public ground which had not yet had a partition, they are not allowed to resign their space to each other. I am asking, however, considering the Tana who maintains, that the two courts may resign their space to each other. Shall I assume, that it is permitted in the case of the two courts because they could have made an Erub on the preceding day, but in the case of our two houses which could not have made an Erub on the preceding day, it is not permitted or, as there is a partition around the intervening public ground, they may do so ? "

R. Shesheth answered : " Nay, it is not permitted." R. Hisda queried again : " How is it, if two Israelites living in the same court with a Gentile and not having made an Erub or rented the place of the Gentile, the latter died on the Sabbath ? May they mutually resign their space to each other ? According to the Tana who holds, that one may rent a place on the Sabbath, there is no question, because if they did not make an Erub they may rent the place from the Gentile and then resign their places to each other ; thus if two things may be done on the Sabbath, one certainly may be done. I ask thee according to the Tana who prohibits renting on the Sabbath. May the two Israelites in this case where the Gentile is dead and they need not rent his place resign their places to each other or not ? " Rejoined R. Shesheth : " I say that they may ; because if they had chosen to rent the place yesterday and then effect an Erub they could have done so, but Hamnuna does not allow them to do this."

R. Jehudah said in the name of Samuel : " If a Gentile have in his court a door, four spans wide and four ells high, opening into a valley, even should he lead cattle, camels, and wagons through the entry to the court all day long, he does not interfere with the Israelites inhabiting the court, because his door is of more use to him than the common entry, and serves to separate him from the others."

The schoolmen asked: "How is the law, if the door of the Gentile opened into a woodshed?" R. Na'hman bar Ami said in the name of some learned men: "Even if the door of the Gentile open into a woodshed and the common entry into the street, he also does not interfere with the Israelites inhabiting the court." Rabba and R. Joseph both say: "If the woodshed was not more than of two saahs' capacity, the Gentile *does* interfere with the Israelites, because he cannot derive as much comfort from the woodshed as he can from the street, but if the woodshed was larger than that the Gentile does not interfere. With Israelites it is the reverse: if the woodshed, into which the separate door opens, be *no* more than of two saahs' capacity and the Israelite had not combined in the Erub with the others, he does *not* interfere with them, because a woodshed of that size may be used by him on the Sabbath; but if the woodshed be larger, he *does* interfere with the other Israelites."

Rabba bar Haklayi asked of R. Huna: "How is the law if a Gentile have a door opening into a woodshed?" and R. Huna answered: "The sages have already decided this. If the woodshed be of two saahs' capacity, he interferes with the Israelites, but if of more than two saahs' capacity he does not."

It happened that some warm water was spilled and more was needed for a child on the Sabbath. So Rabba said: "Let some warm water be brought from my house." Said Abayi to him: "Why! no Erub has been made!" Rejoined Rabba: "Let us depend upon the combine made in the entry (of this court)," but Abayi persisted: "We have no part even in the entry." Finally Rabba said: "Let a Gentile be told to bring it." Subsequently Abayi said: "I had a mind to dispute even this last order of my master, but R. Joseph would not permit me to do this; for R. Joseph said in the name of R. Kahana: 'Where a biblical ordinance is in question the case should be discussed before the act is committed, but in the matter of rabbinical ordinances the deed may be accomplished and then the decision may be asked for.'"

Then R. Joseph asked Abayi: "Upon what grounds dost thou desire to dispute this last order of the master?" and he answered: Upon the teaching we have learned in a Boraitha, viz.: While the sprinkling of an unclean man (with the ashes of the red heifer) by a clean man is only a rabbinical ordinance, the Sabbath should not be violated by the performance of this rite even if it be necessary for the fulfilment of a command-

ment, and in the same manner requesting a Gentile to perform an act on the Sabbath being also against the rabbinical ordinance, it should not be done on the Sabbath. Rejoined R. Joseph: "Canst thou discriminate between the performance of an *act* which is against the rabbinical ordinance and a case where no act at all was committed? The Gentile was not told by Rabba to warm the water but merely to bring it from his house through the entry, and this is certainly not prohibited."

Said Rabba bar R. Hanan to Abayi: "How is it possible, that in a court where two such great men as Rabba and thou reside, no Erub was made either in the court or in the entry?" Answered Abayi: "How can I help it? The master does not usually pay attention to such trifles; I am engaged all the week long in study, while the inmates of the court do not trouble themselves about it. Should I make up my mind to present them with the bread in my basket, it would be merely a sham, for if they were to demand it, I could not in reality part with it as I cannot spare it; hence even if I should have this in mind, it would be useless; for we have learned in a Boraitha, that if one of the inhabitants of the entry demanded wine or oil and was refused, the combine is made invalid." Rejoined Rabba bar R. Hanan: "Then thou couldst have in mind to give them a quarter of a lug of vinegar from the cask thou hast in the house, and thou surely wouldst not use up *that* on the Sabbath." Abayi replied: "We have learned in another Boraitha, that it is not allowed to combine an Erub with material which is in bulk because it might be, that the very part which was intended for the Erub may be used." "But," insisted Rabba bar R. Hanan, "we have learned in another Boraitha that this may be done." Said R. Oshiya: "Concerning this, there is a difference of opinion between Beth Shammai and Beth Hillel." It happened again that some warm water needed for a child was spilled. Said Rabba: "Let the mother be asked whether she is in need of warm water, and, if so, a Gentile may be told to warm it and bring it to her and it will serve for the child also." R. Mesharshia remarked: "The mother has been eating dry dates for some time (then she certainly does not need any warm water)." Rejoined Rabba: "She is not quite herself and knows not what she eats."

Another case of this kind happened with a child. So Rabba said: Let the belongings of the men be taken from the men's room into the women's apartment; I shall then resign my place

for the benefit of others and the warm water may be brought from my house.

Said Rabbina to Rabba: "Did not Samuel say, that it is not allowed to resign the space of one court to another?" and Rabba answered: "I hold with R. Johanan who permits this to be done." Rejoined Rabbina: "If thou dost not hold with Samuel, why then didst thou order the belongings of the men to be transferred to the women's apartments? Thou shouldst have resigned thy place to them and they their place to thee, then all of you will be enabled to carry, which according to Rabh is also permissible." Rabba replied: "In this respect I hold with Samuel in order that it should not appear as a farce if I resign my place to the others and they their place to me."

The text states, that Rabh permits the mutual resigning of places and Samuel prohibits it. Said R. Ashi: Rabh and Samuel differ in the same point as R. Eliezer and the sages (in Chapter II., last Mishna, where R. Eliezer forbids the inmate of a court who had forgotten to join in the Erub to carry and permits the other inmates to do so).

"*R. Gamaliel related: It happened that a Sadducee,*" etc. Whence this reference to a Sadducee? The Mishna is not complete and should read thus: A Sadducee is considered the same as a Gentile, and R. Gamaliel said: "He is not considered as a Gentile," and then relates the incident: "It happened, that a Sadducee dwelt with us in one alley in Jerusalem, and my father said to us: 'Make haste and bring out all your vessels into the alley, before the Sadducee can do this and thus prevent *you* from doing so.'"
We have also learned to this effect in a Boraitha, viz.: "An Israelite who lives in the same court with a Gentile, a Sadducee, or a Bathusee, is prevented by them (from carrying therein). R. Gamaliel, however, said this does not apply to a Sadducee or a Bathusee, and it happened that a Sadducee lived in the same alley with him in Jerusalem, so he said to his children: "Make haste and carry out all your vessels into the alley, before that unworthy one can come out and prevent you from doing so; for so far he has resigned his place to you (but later he may change his mind)." So said R. Meir. R. Jehudah, however, gave another version of the affair, viz.: Make haste and do what is necessary for you in the alley, before it becomes dark; for after dark the Sadducee will prevent you from doing so (meaning that the Sadducee, like a Gentile, cannot resign his place to the Israelites). Shall we assume then,

therefrom, that if the Israelites do a thing before the Sadducee that he cannot prevent them later? Have we not learned in a Mishna? "One who, after resigning his place, carries out intentionally or inadvertently into the court, prevents the others from doing so. So said R. Meir?" Said R. Joseph: "Say, that he does not prevent the others." Abayi says: There is no difficulty. The Mishna by stating that he prevents the others means to say, if he had previously carried out things (before the others did so) as we have learned in a Boraitha: If after resigning his place, a man carried out things into the court, either intentionally or inadvertently, he prevents the others from doing so, so said R. Meir. R. Jehudah said "only if he did so intentionally." All agree, however, that such is only the case, if the other inmates of the court had not carried out things before he did, but if they had done so, he does not prevent them at all, whether he had carried out things intentionally or unintentionally.

The master said: "R. Jehudah, however, gave another version of the affair. Then R. Jehudah holds, that the Sadducee is considered as a Gentile, and in the Mishna we have learned, that R. Gamaliel said: "Lest the Sadducee bring out *his* vessels," etc. This presents no difficulty. There are two kinds of Sadducees. One who publicly violates the Sabbath is considered as a Gentile, and one who does so secretly, is not considered as a Gentile. According to whose opinion will the following Boraitha be: "One who publicly violates the Sabbath, cannot resign his place?" According to the opinion of R. Jehudah.

Once a man went out on the Sabbath with a bundle of spices in his hand, and seeing the approach of R. Jehudah the Third, he concealed it. Said R. Jehudah the Third: According to R. Jehudah a man of this kind may resign his place, as we have learned in another Boraitha: An apostate who does not violate the Sabbath in the markets may resign his place, but one who does violate the Sabbath in the markets cannot do so; for it was said, that only an Israelite may resign his place or accept ground resigned to him by another, but from a Gentile the place must be rented. How may a place be resigned by Israelites? One says to the other: My place is sold to thee or my place is resigned to thee, and no token of acceptance is necessary.

MISHNA: Should one of the householders of a court forget, and not join in the Erub, neither he nor the other inmates of the court are allowed to carry anything into or out of his house,

but he *and* they may carry into or out of their houses. If the other inmates have resigned to him their common right to the court, he is permitted to carry therein, but they must not do so. Should there be two persons who have neglected to combine in an Erub, they mutually prevent each other; for one individual can resign his right to the court or can acquire that right; but two persons, though permitted to jointly resign their right, cannot jointly acquire the right to the exclusive use of the court.

From what time is the right to be conferred? Beth Sham-mai hold, "While it is yet daylight," but Beth Hillel maintains "even from dusk (on the eve of Sabbath)." Whoever resigns his right (to the court) and afterwards either intentionally or inadvertently carries within it, prevents (renders it unlawful for) the others from doing so. Such is the dictum of R. Meir. R. Jehudah, however, said: If he carries (within the court) intentionally, he prevents them, but if inadvertently, he does not.

GEMARA: Is it unlawful only to carry into and out of his house, but carrying into and out of the court it is lawful? How was the case? If he resigned his right to the house why should it be unlawful (to carry into) the house; if he did not resign his right to the house, why should they all have a right to the court? In this case, the man had resigned his right to the court alone but not to his house, and the sages maintain, that by resigning his right to the court he did not also resign his right to his house, and there are men who live in houses that have no court. Why then is it lawful for him to carry in and out of their houses? Because he is considered as a guest.

"*If the other inmates have resigned to him,*" etc. Will they then be considered as his guests? One man can be the guest of five, but five men cannot be considered the guests of one. Can we adduce from this clause in the Mishna that this resigning of the right (to a place) can be repeated mutually several times? The Mishna may mean to state that the other inmates had already previously resigned their rights to the one man, in which case it becomes lawful for him, but not for them.

"*Should there be two persons,*" etc. Is this not self-evident? The case is, if after having forgotten to join in the Erub, one of the two persons resigned his right to his house and also the right to the part of the court renounced to him by the others. We might assume that this could be lawfully done. We are therefore told that the other inmates having resigned their rights to

the two persons jointly, one of them individually cannot resign his right, because he had not an individual right at that time.

"*For one individual can resign his right,*" etc. This was just stated in the Mishna, what need is there of the repetition? We have learned both concerning resigning and acquiring a right? The latter part of the clause, which teaches that two persons may resign their right, but must not acquire it, is essential. This, however, is also self-evident? We might assume, that a precautionary measure is necessary prohibiting two to resign their right, lest one resign his to two; therefore we are told, that such a precaution is not necessary.

"*Two persons cannot jointly acquire the right.*" Why this repetition again? Here we are told, that two persons must not acquire the right even when presented with the ground in question outright, so that they have the privilege of transferring it to others.

Abayi asked of Rabba: "If five men inhabited one court and one of them had forgotten to join in the Erub, must he resign his right to each of the others individually or can he do so collectively?" Rabba answered: "He must do so to each individually." Rejoined Abayi: "We have learned, that one who had not joined in an Erub, may resign his right to another that had, and two persons who had joined in an Erub may resign their right to one who had not; two who had not joined in an Erub may also resign their right to two others who had not, but one who had not joined in an Erub must not resign his right to another in the same condition nor may two who had not joined in an Erub resign their right to two others, who were similarly situated. It says, then, that one who had not joined in an Erub, may resign his right to one who had. The one who had, certainly must have had another person to combine an Erub with him, then it seems to be sufficient if he (who had not joined) resigned his right to the one man only and not to the other also?" Rabba replied: "Yea, he certainly had a companion in the Erub, but it may be the case, that the companion died and he was left alone."

Rabha asked R. Na'hman: "May an heir (whose father died on the Sabbath) resign his right or not? Shall I say, that because he could not prepare the Erub on the preceding day, not having his own property, he cannot resign his right on the Sabbath; or that he, being a descendant of his father, has also inherited his father's right?" Answered R. Na'hman: "I

hold, that he may, but the disciples of Samuel maintain, that he must not." Rabha objected: We have learned: This is the rule: A thing that had been permissible on part of the Sabbath is permissible for the entire Sabbath, and that which was prohibited for part of the Sabbath was also prohibited for the entire Sabbath. What is meant by "had been permissible on part of the Sabbath?" *e.g.*, a door which was used for making the Erub and had become closed up during the Sabbath, and "by prohibited for part of the Sabbath" is meant, *e.g.*, two houses, each one of which stood on the opposite sides of a wide street and a partition was made by Gentiles on the Sabbath. The exception is as regards one who resigned his right, *i.e.*, although a man had forgotten to join in an Erub before the Sabbath, he was not permitted to carry on part of Sabbath, still he may on the Sabbath resign his right to the place and carry. It says, however, that only the man may carry but not his heir? Replied R. Na'hman: "Learn: instead of 'the exception is as regards one who resigns his right,' the exception is the law pertaining to the resigning of a right."

Rabha raised another objection: We have learned: "If one of the householders of a court died and left his right to the ground to one living in the market, if the death took place while it was yet day before the Sabbath, the man living in the market impedes the inmates of the court; but if the death took place after dusk, he does not. If a man, however, living in the market, was possessed of a house and having died left his right to his place to one of the inmates of the court, then the reverse is the case, *i.e.*, if he died before Sabbath set in, the inmate of the court does not impede the others, (because he could have joined in an Erub); but if the man died on the Sabbath, he does impede the others." Now if thou sayest, that the heir may resign the right, let him do so, why should he impede the others? Answered R. Na'hman: "This means, that he impedes the others only until he resigns his right."

R. Johanan said: The above Boraitha is according to Beth Shammai, who hold, that it is not allowed to resign a right on Sabbath as we have learned in our Mishna: From what time may the right be resigned? Beth Shammai hold "while it is yet daylight," and Beth Hillel maintain: "From dusk."

Said Ula: Why do Beth Hillel hold, that it may be done on Sabbath? The reason of Beth Hillel is based upon an instance where a man was about to separate heave-offerings for

another without being told to do so. In the meantime this other man came along and saw that the heave-offerings were being separated for him, whereupon he said to the man: "Separate it from the finer grain." In that case the heave-offering is valid. Why? Because by the statement "separate it from the finer grain" he demonstrated his approval of the man's action and his intention to have done this at all events. The same is the case with a man who resigns his right on the Sabbath; for he demonstrates that his intention had been to join in the Erub on the preceding day, but he had forgotten.

Said Abayi to him: If this be the reason of Beth Hillel, what about the case of a Gentile who lived in the same court with two Israelites and happened to die on the Sabbath? The Israelites are permitted in that event to resign their rights to each other, but can it be said that their intention dated from the preceding day? Hence the reason of Beth Hillel is simply this: While Beth Shammai prohibit the resigning of the right to a place because they hold, that it is equal to selling the place and selling or buying is prohibited on the Sabbath, Beth Hillel however hold, that resigning the right to a place is simply abandoning the place, and that is permissible on the Sabbath.

MISHNA: Should a householder be in partnership in wine with two of his neighbors (residing in the same alley), they do not require an Erub; if he be in partnership with one in wine and with another in oil, they do require an Erub. R. Simeon said: Neither in one case nor in the other do they require an Erub.

GEMARA: Said Rabh: "Such is the case if the wine was contained in one vessel." And Rabha said: "This may be inferred from the Mishna itself; for the latter clause of the Mishna states, that if the householder be in partnership with one in wine and with another in oil, they require an Erub. It would therefore be correct if in the first clause the wine is contained in one vessel and in the second clause there are two separate vessels; but were there two vessels in the first clause also, what difference would it make whether one vessel was filled with oil and the other with wine, or both with wine?" Rejoined Abayi: This is no argument. Wine can be mixed with wine (hence, even if it be in two vessels it can be mixed and an Erub made with it is valid), but oil and wine cannot be mixed, and even though there are two separate vessels the Erub cannot be made therewith.

R. Simeon said: "Neither in one case nor in the other do they require an Erub." Is it possible that R. Simeon holds, that even where one vessel contains wine and the other oil, no further Erub is necessary? Said Rabba: "The case referred to applies to a court between two entries (alleys) and R. Simeon holds to his theory, as we have learned in the case of the three courts opening into each other and also into the street, that communication between the middle court and the two outer or between the two outer ones and the middle one is permissible; thus in this case R. Simeon means to imply, that the court made an Erub with one of the entries by means of wine and with the other by means of oil, hence no additional Erub is necessary, and communication between the court and both entries is permissible."

Abayi objected: "How canst thou compare the two instances? In the case of the three courts communication between the two outer is prohibited, whereas here it is said that no additional Erub whatever is necessary?" Learn also here, that no additional Erub is necessary to allow of communication between the court and the entries, but if the inmates of either of the entries desire to carry in the other they must make an additional Erub.

R. Joseph, however, said: "R. Simeon and the sages differ in the same point as R. Johanan ben Nouri and the sages in another Mishna as follows: 'If oil floated on wine and a man who had bathed before sunset (and hence was not yet ritually clean) touched the oil, the sages hold, that the oil becomes unclean, but the wine is not affected. R. Johanan ben Nouri, however, maintains, that the wine and the oil are attached to each other and therefore both become unclean.'" In our Mishna, the sages hold with the sages of the Mishna quoted, and R. Simeon holds with R. Johanan ben Nouri.

We have learned in a Boraitha: R. Elazar ben Tadaï said: "In either case they require an additional Erub." Even if both vessels contain wine an additional Erub is necessary? Answered Rabba: The case is thus: If two men each bring a jug of wine and pour the wine together, there is no question but what that constitutes a legal Erub, but in this instance R. Elazar ben Tadaï means to state that if two men bought a cask of wine jointly and had not yet separated their shares, the Erub is not valid because it cannot be made with anything owned in partnership, and he holds thus for the reason that he does not accept the theory of premeditated choice. The sages, however,

permit this mode of procedure, because they accept the theory of premeditated choice.

R. Joseph said: "R. Elazar ben Tadaï and the sages differ on another point, namely: The question whether the inmates of the court can depend upon the combine made in the entries." All agree that carrying in the entries is permissible if the Erub has been made there, but R. Elazar ben Tadaï holds, that this is not permitted in the court because the combine made in the entries cannot be depended upon, while the sages hold that it may be depended upon.

R. Joseph continued: "Whence do I know, that this is the point of difference? From the statement of R. Jehudah in the name of Rabh, to the effect that the Halakha prevails according to R. Meir, and the subsequent statement of R. Brona in the name of Rabh, that the Halakha prevails according to R. Elazar ben Tadaï. Therefore, we must assume, that R. Meir and R. Elazar have one and the same reason." Said Abayi: "This may be so; but why did Rabh say at one time that the Halakha prevails according to R. Meir and at another time according to R. Elazar ben Tadaï? Would it not be sufficient to state, that the Halakha prevails according to one of the two?" (And R. Joseph answered:) "Rabh desires to inform us that wherever the laws of Erub are concerned and two Tanaim differ as to the details, but agree as to the main issue of the Halakha, and we say that the Halakha prevails according to both, we need not abide by the more rigorous decisions of each but, on the contrary, should accept the more lenient decrees of both."

Which R. Meir is referred to by Rabh? The one figuring in the following Boraitha: In courts an Erub must be made with bread, but it is not allowed to do so with wine. In the entries a combine must be effected with wine, but if the inmates desired to do so with bread, it is permissible. An Erub must be made in the courts and a combine in the entries in order that the growing children should not forget the laws of Erub and say, "Our parents did not make an Erub." Such is the decree of R. Meir; the sages, however, say: Either an Erub or a combine must be effected (*i.e.*, if one was omitted the other can be depended upon).*

R. Jehudah in the name of Rabh said: "The Halakha pre-

* The explanation to this Boraitha, as given by Rashi, will be embodied in the text throughout this Tract.

vails according to R. Meir." R. Huna said: "The custom prevails according to R. Meir," and R. Johanan said: "The masses only act in accordance with the dictum of R. Meir." *

MISHNA: Should five different companies take their Sabbath-rest in one hall (triclinium), Beth Shammai hold, that each company requires a separate Erub, but Beth Hillel hold, that one Erub suffices for all of them. The latter school admit, however, that if any of these companies occupy distinct chambers or attics, each company requires a separate Erub.

GEMARA: Said R. Na'hman: "The two schools differ only as regards a low centre-partition, but if there was a partition ten spans high between each of the companies, all agree that each company requires a separate Erub." According to another version, R. Na'hman is supposed to have said: "They differ not only as regards a low centre-partition, but also concerning partitions between each company."

R. Jehudah the Sagacious said: The schools of Shammai and Hillel do not differ where partitions that reach to the ceiling of the hall are concerned, they agree that in that event each company requires a separate Erub. Wherein they do differ, however, is if the partitions do not reach the ceiling. Said R. Na'hman in the name of Rabh: The Halakha prevails according to R. Jehudah the Sagacious.

R. Na'hman bar Itz'hak said: We can infer this from the Mishna itself. The latter clause of the Mishna states, that Beth Hillel also agree with Beth Shammai if the companies each dwell in distinct chambers or attics. What is meant by distinct chambers and attics? Shall we say, that they are really chambers and attics? Then it would be self-evident. We must say, then, that they are similar to chambers and attics, *i.e.*, that the reference is to partitions which reach to the ceiling. Hence the deduction that the decree of R. Jehudah the Sagacious is correct.

We have learned in a Boraitha: The difference of opinion between the two schools centres in the question whether the companies deposited their Erubin elsewhere. But if the Erub is deposited in the hall occupied by them, all agree that one Erub is sufficient for all. According to whose opinion will be the statement of the following Boraitha, that if five men combined an Erub, one Erub is sufficient for all of them? This is in accordance with the opinion of Beth Hillel.

* See pages 146 and 147.

MISHNA: Brothers (or associates) who take their meals at their father's (or at one) table, but sleep each in his separate house (in the same court), must each one prepare a separate Erub. Therefore if one of them had forgotten and not prepared an Erub, he must resign his right (to the common court). When is this the case? When the Erub had been deposited in some other place; but if the Erub has been placed with them, or if there are no other inhabitants in the court, they need not prepare any Erub whatsoever."

GEMARA: From this Mishna it may be adduced, that an Erub should be made in the place where a man sleeps and not where he takes his meals (and further, we will observe, that Rabh holds, that an Erub must be made where the man takes his meals). Said R. Jehudah in the name of Rabh: The Mishna means to say, that the brothers did not actually eat at their father's table but merely received from their father the means with which to obtain their meals.

The Rabbis taught: One who had a vestibule, a gallery, or a balcony in the court of another, and did not join in an Erub with the other inmates of the court does not impede the other inmates. If he had a hay-loft, a cattle-pen, a woodshed, or a granary in the court of another and did not join in an Erub, he does impede the others. R. Jehudah, however, said: "Nothing except a dwelling-house can prove an interference," and he continued: "It happened that an inhabitant of Naph'ha,* who had five courts in Usha, did not join in an Erub with the inmates of those courts and the question was laid before the sages whether this was an impediment to their carrying within the courts and the sages replied: 'Nothing but an actual dwelling-house can prove an impediment.'"

What is meant by a dwelling-house? A house occupied as a dwelling. What is to be understood by "occupied as a dwelling"? Rabh said: "The house where a man takes his meals," and Samuel said: "The house wherein a man sleeps."

An objection was made: The shepherds, those that guard the fig-trees, the inhabitants of huts in the country and the guards of the fields, when passing the night in a town have the same rights as the townsmen, but when passing the night at their posts, they have only the right to two thousand ells from the place where they are situated. (From this we can see, that the place where one passes the night is considered as his abode?)

* In the Tosephta this narrative is told of the son of a prince.

This is no proof! For we can testify, that those men would be much better satisfied if their meals were brought to them at their posts (hence their posts are not only their places of abode but also their eating-places, and as for those who pass the night in the town, they evidently also take their meals in the town for the time being).

The Rabbis taught: Concerning five women who receive from their husbands the means for securing their food and five slaves who receive the means from their masters to procure their sustenance and who live in separate houses in the court, R. Jehudah ben Bathyra permits the women to carry within the court and prohibits the slaves to do so; but R. Jehudah ben Babba on the contrary allows the slaves to carry but prohibits the women to do so.

Said Rabh: "What reason has R. Jehudah ben Babba for his decree? Because it is written [Daniel ii. 49]: 'Daniel remained in the gate of the king,' the inference is, that in the same manner as Daniel did not always remain in the gate of the king, but his office being such that his place was there, so it is also with slaves who, while in the service of their master, are considered as being always at their master's side." It is self-evident that if a son eat and dwell with his father, he need not make an Erub as stated previously. As for a woman who has a husband and a slave who belongs to a master there is a difference of opinion between R. Jehudah ben Bathyra and R. Jehudah ben Babba. How about a disciple, however, who dwells in the same court with his master and derives his sustenance from his master?

Come and hear: When Rabh still dwelt with R. Hyya he said: "We need not join in an Erub because we depend upon the table of R. Hyya," and when R. Hyya still dwelt with Rabbi he also said: "We need not make an Erub because we derive our sustenance from Rabbi."

R. Hyya bar Abhin asked of R. Shesheth: "What about the disciples of the college, who eat in the inns of the valley and pass the night at the college? When the legal limit of two thousand ells is measured where must the starting point be? The college or the inn where they take their meals?" R. Shesheth answered: "The college."

Rami bar Hama asked of R. Hisda: If a father and son, or a master and his disciple, lived in two courts, one inside of the other, and the outer court opened into an entry, what is

the law concerning them? Are they to be considered as if they were two distinct individuals who cannot mutually impede each other because each one of them has a right to carry in his own court and a man who is permitted to do so in his own court cannot interfere with a man in another place; hence both father and son, or master and disciple, may carry each in their respective courts; or, shall we consider them collectively because the son or the disciple who lives in a separate court but eats at his father's table has a certain right to his father's court. Thus the father or the master is not in sole possession, but shares it with another. The consequence is that the father or the master is in duty bound to make an Erub in his own court and, on account of this, he becomes one who can interfere with the right of another, and prevents his son from carrying in his own (the son's) court? Then again if they are considered as distinct individuals, are they in duty bound to combine an Erub covering the two courts? Finally if the two courts had separate openings into the entry, are they considered as separate courts and thus the entry becomes valid by the addition thereto of a cross and side beam, or they are considered as one court, and if one court only opens into an entry, the entry cannot be made valid by the addition of a cross and side beam?

Answered R. Hisda: We have learned this in a Boraitha: A father and his son or a teacher and his disciple, providing there are no other inmates in the court occupied by them, are considered as individuals, and need not make an Erub at any place. Nevertheless the entry into which their court opens becomes valid by the addition thereto of a cross or side beam.

MISHNA: If (the householders dwelling in) five courts that open into each other and also open into one common alley (entry) have joined in an Erub for the courts, but have not combined the alley, they are permitted to carry (things) in the courts, but must not do so in the alley; if they did combine the alley, however, they are permitted to carry both in the courts and in the alley. If they had combined both the courts and the alley, but one of the householders forgot and did not join in the Erub, they are nevertheless permitted to carry both in the courts and in the alley. Should one of the householders (dwelling) in the alley have forgotten to join in the Erub, it is permitted to carry (things) in the court but not in the alley, inasmuch as the alley (bears the same relation) to the courts as the court (does) to the houses within it.

GEMARA: According to whose opinion is our Mishna? We must say that it is in accordance with R. Meir, who holds that an Erub is needed in the court, and a combination in the alley. How, then, could that part of the Mishna be explained, which states that if a combination in the alley is made it is allowed to carry both (in the courts and in the alley); and this is certainly according to the opinion of the Rabbis, who hold that one of the two is sufficient (*i.e.*, either an Erub in the courts or a combination in the alley)? Are then the two parts of the Mishna based on different opinions? This presents no difficulty. The latter part of the Mishna refers to a case where a combination had already been made in the alley; hence it is according to R. Meir's opinion. Now, then, what is the reason of R. Meir in stating that if one of the householders in the court forgot and did not join in the Erub, it is nevertheless permitted to carry both in the courts and in the alley? R. Meir may hold as follows: The most essential feature of this case is to make an Erub in the courts and a combine should also be made in the alley for the benefit of the growing children in order that they may not forget the laws of Erubin. Hence if the combination has been made both in the courts and in the alley, in which the majority participated, there is no fear of the children forgetting the laws.

R. Jehudah said: "Rabh does not learn in the Mishna that the five courts opened into each other but merely that they all opened into one common alley." This was corroborated by R. Kahana. What reason did Rabh have to learn thus? He holds, that if several courts open into one common alley, a cross and side beam suffice to make that alley valid. If, however, only one court open into the alley, a cross and side beam do not suffice. Samuel, however, said: "Even if only one court or one house open into an alley, a cross and side beam suffice for the alley." R. Johanan said: Even if a ruin open into an alley, a cross and side beam suffice.

Abayi asked of R. Joseph: "Does R. Johanan hold, that even if the path leading to a vineyard open into an alley, a cross and side beam suffice for the alley?" R. Joseph replied: "Nay; R. Johanan meant to say a ruin which (in an emergency) could be inhabited; but a path which could not under any circumstances be inhabited, is out of the question."

Said R. Huna bar Hinana: R. Johanan's statement concerning a ruin is but in accordance with his theory expressed in

his decision regarding the Mishna (Chapter IX., Mishna I, of this tract) where R. Simeon says that "roofs as well as courts and woodsheds constitute the same kind of premises for the carrying of all utensils contained therein when the Sabbath-rest began," etc. This was commented by Rabh as follows: "The Halakha prevails according to R. Simeon provided no Erub was combined by the inmates of each separate court," meaning thereby that if no Erub was combined, the inmates will not carry out any vessels from their houses into the court. Samuel and R. Johanan, however, declare that the Halakha prevails according to R. Simeon, even if an Erub was combined, as there is no apprehension that the inmates will carry out any vessels from their houses into the court, and as in this case there is no apprehension that the vessels will be carried out of the houses, so also in the case of a ruin, R. Johanan holds, that there is no fear of the inmates carrying vessels from the court into the ruin by way of the alley.

R. Brona sate and repeated the Halakha decreed by Samuel (to the effect that even if one court or one house opened into an alley, a cross and side beam was sufficient for the alley). Said R. Eliezer, one of the schoolmen, to R. Brona: "Did Samuel indeed say this?" and R. Brona answered: "Yea." R. Eliezer then asked to be shown where Samuel resided, and R. Brona showed him. R. Eliezer then came before Samuel and said: "Did master decree thus?" and the answer was: "Yea." Rejoined the schoolman: "Didst thou not state previously that where the laws of Erubin are concerned, we must hold strictly to the literal text of the Mishna and the Mishna distinctly teaches: 'The alley bears the same relation to the courts as the court (does) to the houses within it.' " Samuel remained silent.

Does the silence of Samuel signify, that he accepted R. Eliezer's view or that he did not care to reply? Come and hear: A certain Aibuth bar Ihi dwelt in an alley and erected a side-beam therein. Samuel told him that this complied with the legal requirements. After the death of Samuel, R. Anan came and destroyed the side-beam. Said Aibuth: "In an alley where I live by the direct permission of our master Samuel, a mere disciple like R. Anan dares to come and destroy my side-beam." Hence we see, that Samuel did not accept the opinion of R. Eliezer! This is not conclusive evidence! The case of the alley could be explained as follows: The sexton of the synagogue took his meals with this Aibuth bar Ihi, but lodged in the syna-

gogue. Aibuth was of the opinion that the residence is determined by the place where he takes his meals, hence the sexton and he were the occupants of one house; (and Samuel declared his alley to be valid in conformity with his original decision, that if one court or one house opened into an alley a cross and side beam is sufficient for the alley) but Samuel, who held that the residence of a man is determined by his lodging-place, may have accepted the opinion of R. Eliezer, and taking into consideration that there were two dwellings in the alley, that of Aibuth and that of the sexton, he made the alley valid by the addition of a side-beam.

MISHNA: If two courts be one within the other, should the inmates of the inner court prepare an Erub and those of the outer court fail to do so, the inmates of the inner court may carry within it, but those of the outer court must not carry within their (own) court. If the inmates of the outer court prepare an Erub, but those of the inner court fail to do so, neither are allowed to carry within their respective courts. If each have prepared a separate Erub, they are permitted to carry within their own limits. R. Aqiba holds, however, that the inmates of the outer court are prohibited to carry within it and that the right of thoroughfare possessed by the inner court renders the outer court prohibited; but the sages hold, that the right of thoroughfare does not render it so.

Should one of the inmates of the outer court forget to join in the Erub, it is permitted to carry within the inner court, but carrying within the outer court is prohibited. If one of the inmates of the inner court forget to join in the Erub, carrying in either court is prohibited. If the inmates of both courts deposit their Erub in one place, and one of the inmates of either the outer or inner court forgot and did not join in the Erub, carrying in either court is also prohibited. Should each court be the property of an individual (or inhabited by only one household), neither require an Erub.

GEMARA: When R. Dimi came from Palestine, he said in the name of R. Janai: The latter clause of the Mishna stating, that if one of the inner court forget to join in the Erub, carrying in either court is prohibited, is merely a continuation of the dictum of R. Aqiba, who holds, that a foot (*i.e.*, a man) which is allowed to carry in its own place nevertheless interferes with the right of another place. The sages, however, hold, that as a foot which *is* allowed to carry in its own place does not interfere

with the right of another place, so also a foot which is *not* allowed to carry within its own place does not interfere with the right of another place and thus the inmates of both courts may carry within their own limits.

An objection was made based upon a previous clause in the Mishna, which states that if the inmates of the outer court prepare an Erub, but those of the inner court fail to do so, neither are allowed to carry within their respective courts, and this is certainly not in accordance with the opinion of R. Aqiba, because even had the inmates of the inner court made an Erub he would still prohibit the outer court to carry within their own court. (Hence we must assume, that this is in accordance with the opinion of the sages, who hold that a foot which is allowed to carry within its own place does not interfere with the right of another place, but one which is not allowed *does* interfere.) Therefore we must rather accept the statement of Rabbin in the name of R. Janai: There are three different opinions concerning this subject, viz.: The first Tana of our Mishna holds that a foot which is allowed to carry within its own place does not interfere with the right of another place, but a foot which is prohibited does interfere with the right of another place. R. Aqiba holds that even a foot which is allowed, also interferes with the right of another place; but the last sages of our Mishna maintain, that as a foot which is allowed does *not* interfere with the right of another place, so also a foot which is prohibited does also not interfere.

"If the inmates of both courts deposit their Erubin in one place," etc. What is meant by "one place"? Said R. Jehudah in the name of Rabh: This refers to the outer court and is called "one place," because it is designated for the use of both courts (as the inmates of the inner court must pass through the outer).

We have also learned in a Boraitha (in support to R. Jehudah): "If the Erub was placed in the outer court, but one of the inmates either of the outer or inner court forgot to join in the Erub, carrying in either of the courts is prohibited. If the Erub was deposited in the inner court, but one of the inmates of that court forgot to join in the Erub, carrying in either court is also prohibited. If one of the inmates of the outer court forgot to join in the Erub, carrying in either court is prohibited. Such is the dictum of R. Aqiba; the sages, however, maintain that in the last instance carrying is permitted within the inner court, but prohibited within the outer court."

Rabba bar Hanan asked Abayi: "Why do the sages permit carrying within the inner court, because they can close their door and say all the inmates of our court have joined in the Erub? Why should R. Aqiba not take the same view, let him also say, that they can close their door and assert their right to carry within their own court?" Abayi answered: "The Erub deposited in the outer court accustoms the inmates of the inner court to make use of the outer." Said Rabba bar Hanan again: "And the sages, do they not hold that the Erub of the outer court accustoms the inmates of the inner court to walk in the outer?" The sages may maintain, that the inmates who have deposited their Erub can say to the one who forgot to join: We have included thee in our combination for thy convenience, but not to our detriment. Why can they not do this according to R. Aqiba also? According to R. Aqiba, the inmates who have joined in the Erub may say to the one who had forgotten: "We will resign our right to the place in thy favor." Why can this not be said according to the sages? Because the sages do not admit of the resigning of one's right to a place in one court in favor of one who resides in another court.

"*Should each court be the property of an individual,*" etc. Said R. Joseph: "Rabbi taught, that if there was a third court between the two also belonging to an individual, it is not permitted to carry in either of the three." Said R. Bibhi (to the schoolmen): "Do not listen to R. Joseph! Rabbi did *not* teach this; for I myself said it in the name of R. Ada bar Ahabha and gave as a reason that the outer court will be traversed by (the inmates of) three (courts); therefore I also prohibited carrying within the middle court, lest a mistake be made and things be carried in the outer court also." R. Joseph then exclaimed: "Lord of Abraham! I confounded the word 'Rabbim' (many) with Rabbi; for before I was ill I heard from R. Bibhi that the outer court will become a court for many (three) and when recovered from my illness I quoted the Boraitha in the name of Rabbi." Samuel, however, said: "It is always allowed to carry within courts for many (even if there be four or five) provided there is only one household in each court, but if there be two in one court it is not permitted."

Said R. Elazar: According to Samuel, if a Gentile live in one of the courts he is considered as many others and he impedes the outer courts.

R. Jehudah in the name of Samuel said: "If there were ten

houses one within the other and the house on the outside opened into the court it is not necessary for the inmate of each house to combine in an Erub with the other inmates of the court, but it is sufficient if the inmate of the innermost house, who must pass through all the others, do so," but R. Johanan says that each inmate must combine; even the one living in the house opening directly into the street. Even the one living in the uttermost court? Is not the uttermost court to be regarded as a vestibule? By uttermost he means to say the one next to the uttermost.

Upon which point do Samuel and R. Johanan differ? Their point of difference is regarding the definition of a vestibule. Samuel holds, that all the houses leading to the innermost are considered as vestibules hence they require no Erub, while R. Johanan maintains that only the uttermost house, through which all the other inmates must pass, can be considered a vestibule, but even the one next to the uttermost through which the eight other inmates must pass is also not a vestibule.

R. Na'hman in the name of Rabba bar Abahu quoting Rabh said: There were two courts between which stood three houses opening into each other and the two houses on each side of the middle house opened into their respective courts. If the inmates of the courts desired to place their Erub in the middle house, they used the houses opening into the courts as thoroughfares to the middle house. Thus the house at one court becomes as a vestibule to the inmates of that court and the house at the other court becomes a vestibule to the inmates of the other court, while the house in the centre being used to deposit the Erub therein, it need not be combined in the Erub itself. Consequently none of the three need combine in the Erub of the courts.

CHAPTER VII.

REGULATIONS CONCERNING THE PREPARATION OF ERUBIN FOR COURTS
SEPARATED BY APERTURES, WALLS, DITCHES, AND STRAW-RICKS.
COMBINATION OF ERUBIN IN ALLEYS.

MISHNA: If there be an aperture, four spans square, and less than ten spans high (from the ground), between two courts, the inmates of each court may prepare two separate Erubin; or if they prefer it, may combine in one Erub. If the aperture be less than four spans square or over ten spans from the ground, they are each obliged to prepare a separate Erub, and must not combine in one.

GEMARA: Shall we say that this anonymous Mishna is in accordance with R. Simeon ben Gamaliel, who holds that the law of "lavud" (attached) applies for a distance of less than four spans and not for a distance of less than three spans as maintained by the sages? Nay; this Mishna may be even in accordance with the opinion of the sages, for the question of "lavud" does not arise here. It is merely a case of an aperture which is less than four spans square, hence it is not considered a door and this is admitted by the sages also, who hold that if an aperture is four spans square or more, it is considered a door, but if less than four spans square it is not.

"*If the aperture be less than four spans square,*" etc. Why this repetition? Is this not self-evident? The first clause of the Mishna states, that if there be an aperture four spans square and less than ten spans high from the ground, the inmates of the courts may either prepare separate Erubin or combine in one. Hence if the aperture be less than four spans square and more than ten spans high, it is obvious that they cannot have their choice? The Mishna means to teach us, that if the aperture was partly less than ten spans high from the ground and partly more than ten spans high the inmates of the court still have their choice of either making separate Erubin or combining in one, and only if the entire aperture was over ten spans high

from the ground, they are obliged to make each a separate Erub.

This explanation of the Mishna has reference to the following teaching of the Rabbis, viz.: If the entire aperture, with the exception of a small part, was higher than ten spans from the ground (*e.g.*, if the aperture was twelve spans square and was eight spans high from the ground, thus two spans of the aperture were within ten spans from the ground and ten spans were over ten spans from the ground), or if the entire aperture with the exception of a small part was less than ten spans from the ground (*e.g.*, if it was twelve spans square and only two spans were over ten spans from the ground), the inmates of the courts may either each make a separate Erub or combine in one. If the entire aperture with the exception of a small part was higher than ten spans from the ground the inmates have their choice; why is it necessary to state, that if the entire aperture with the exception of a small part was within ten spans from the ground, the inmates have their choice, is this not self-evident? After having stated the law in the former case, it applies the more to the latter.

R. Na'hman said: "The case of where the aperture is less than four spans square or over ten spans from the ground, applies *only* to courts, but as for houses, the aperture may be at any distance from the ground, even over ten spans, and, nevertheless, the inmates are permitted to join in an Erub." Why so? Because a house is considered solid, and every portion is regarded as occupied.

R. Abba asked of R. Na'hman: "If in the attic of a house there was a hole for the purpose of fastening a ladder therein, may the inmate of the attic join in the Erub regardless of whether there was a ladder fastened in the hole of the attic or not, *i.e.*, should the house be considered solid and occupied and no ladder is necessary, or is the house only considered solid as far as the walls are concerned but not the interior, and a ladder is essential?" and he answered: "A ladder is not necessary." R. Abba understood R. Na'hman to say, that a permanent ladder was not necessary, but for the time that the Erub was to be combined it was necessary. It was taught, however, by R. Joseph bar Minyumi in the name of R. Na'hman that neither a permanent nor a temporary ladder was necessary.

MISHNA: If there be a wall ten spans high and four spans wide between two courts, the inmates of each must prepare sep-

arate Erubin and must not join in one. If fruit happen to lie on the wall, they may ascend from their respective sides and partake thereof, provided they do not bring any of it down with them. Should there be a breach in the wall, not wider than ten ells, they may prepare separate Erubin or if they prefer it join in one, because the breach is considered as a door. Should the breach, however, be wider than ten ells they must both join in one Erub but must not prepare two separate Erubin.

GEMARA: How is it, if the wall did not measure four spans in width? Said Rabh: "In that case, the atmosphere of two separate premises predominates at the wall and one must not handle anything even the size of a hair lying on the wall." R. Johanan, however, says to the contrary: "In that case the inmates of both courts may lay down fruit on the wall (or even take it down from the wall because it is regarded as ground under no jurisdiction)." R. Johanan will therefore explain the Mishna thus: "If the wall was four spans wide it is permitted to ascend on either side and partake of fruit lying on the wall, but it is not permitted to bring up any. If, however, the wall was less than four spans wide, one may carry fruit up on the wall and eat it there." This statement of R. Johanan is but in accordance with his own theory, as related by R. Dimi upon his arrival from Palestine in the name of R. Johanan, viz.: "An object less than four spans square, standing between public and private ground, may be used by both the occupants of the public and private ground as an aid on which to shoulder a burden on the Sabbath, but they should be careful not to confound the burdens placed on the object so that a burden placed by an occupant of public ground be taken up by an occupant of private ground and *vice versa*."

Can Rabh dispute this assertion of R. Dimi? Is it not identical with the Boraitha concerning a man standing on the doorstep and passing things to a mendicant in the street or to the master of a house (see Tract Sabbath, p. 8)? Rabh does not dispute the Boraitha in that instance, because it concerns a biblical law, but in this case where rabbinical law is dealt with, the Rabbis assume the privilege of reënforcing ordinances so as to preclude the possibility of transgression.

Rabba bar R. Huna in the name of R. Na'hman said: If between two courts there was a wall, which was ten spans high from the ground of one court, but on a level with the ground of

the other,* the wall is ceded to the latter court and considered part of its ground, but to the former court it is an ordinary wall ten spans high. Why so? Because the use of the wall is more convenient for the latter than for the former, and where an object is more convenient for one than for another it is generally ceded to the former.

Said R. Shezbi: "R. Na'hman rendered the same decision concerning a ditch that was situated between two courts and was on a level with the ground on one side."

If a man comes to diminish the size of the wall referred to in the Mishna (either by heaping up earth at the bottom or by erecting posts or benches at its side; such was the original definition of the manner by which the size of the wall was diminished) and this was done to the extent of four spans, or more, he may make use of the entire wall, but if less than four spans he can use only as much of the wall as has been diminished. What do you mean to say? In either case there is an objection. If by diminishing the wall to the extent of less than four spans the wall is actually diminished, why should it not be allowed to use the entire wall, and if this does not constitute a diminution at all, why should it be allowed to use that part (where the earth was heaped up or the posts erected to the extent of less than four spans)?

Said Rabbina: In this case the Mishna does not mean to say, that the wall was diminished by heaping up earth or erecting posts but simply that a part of the wall was removed at the top. If the breach made in this manner exceeded four spans it is considered as a door, and the entire wall may be used, and if it was not quite four spans the entire wall must not be used, but that part of the wall containing the breach may, because its height is lessened.

R. Yechiel said: "If a basin was set down (bottom side up) at the bottom of the wall, the wall is diminished thereby." How can a basin serve to diminish the wall? A basin may be handled on the Sabbath, and is it not a fact that any vessel which may be handled on Sabbath cannot serve to diminish a wall because it can be removed? R. Yechiel means to say, if the basin was fastened to the ground. And if it is fastened to the

* Rashi explains the term "on a level with the ground" to signify, that it was less than ten spans higher than the ground, in which case it is considered as level with the ground

ground may it not be removed nevertheless? By the statement "it was fastened to the ground," is meant if it was fastened so that a hoe or a pick-axe was required to remove it.

An Egyptian ladder does not diminish a wall but a ladder of Tyre does. What is meant by an Egyptian ladder? One that has not four rungs. So said the school of R. Janai.

Said R. A'ha the son of Rabha to R. Ashi: "Dost thou know why an Egyptian ladder does not diminish a wall?" and R. Ashi answered: "Didst thou not hear the statement of R. A'ha bar Ada in the name of R. Hamnuna, quoting Rabh, to the effect that it was an article which may be handled on the Sabbath and any article which may be handled on the Sabbath cannot serve to diminish a wall?" If such be the case, why can a ladder of Tyre serve to diminish a wall, may it not also be handled on Sabbath? A ladder of Tyre can serve because it is so heavy that it would require the efforts of several men to remove it.

Abayi said: If a wall ten spans high was between two courts and a ladder four spans wide was placed at each side of the wall: if the ladders were placed so that they are three spans apart, *i.e.*, the ladder placed on the other side was three spans further up or down alongside of the wall than the other ladder, the wall is not diminished; but if they are not three spans apart the wall is diminished. If the wall, however, was four spans deep so that a man can walk on it, it makes no difference how far apart the ladders are.

R. Bibhi bar Abayi said: "If one erected two benches one above the other at the foot of a wall, and the lower one was four spans wide while the upper was less, the wall is thereby diminished. If the lower bench however was less than four spans wide and the upper four, or more, the wall is also diminished thereby, providing the two benches were less than three spans apart." R. Na'hman said in the name of Rabba bar Abahu, that the same rule applies to a ladder where there is empty space between the rungs (*i.e.*, where one side of the ladder is not closed with boards).

R. Na'hman said again in the name of Rabba bar Abahu: If a cornice four spans square protrude from a wall and a ladder, no matter how narrow, has been placed against the cornice, the size of the wall is thereby diminished, provided the ladder was placed directly against the cornice, but if placed underneath the cornice against the wall, the cornice was merely

enlarged but the wall was not diminished. R. Na'hman says again in the name of the same authority: a wall which is nineteen spans high must have an additional cornice (a ladder which should be placed in the centre of the wall so that the space should not attain ten spans at the top or at the bottom). If the walls, however, measure twenty spans two cornices are needed to make them valid. (One cornice a trifle less than ten spans from the ground and another above that also a trifle less than ten spans from the lower.)

Said R. Hisda: "Providing the cornices are not exactly opposite each other (to prevent a ladder being placed on the bottom cornice)." R. Huna said: "If a peg be placed on a pillar in public ground ten spans high and four spans wide (which is legally private ground) the pillar is diminished." Said R. Adha bar Ahaba: "Providing the peg is three spans high." Abayi and Rabba both said: "Even if it is not as high as three spans." Why so? Because the peg makes the pillar useless. R. Ashi, however, said: "Even if the peg be three spans high it does not diminish the pillar and does not make it private ground because a peg of that kind can be used as a hanger."

R. A'ha the son of Rabha asked R. Ashi, "What is the law if several pegs be placed on the pillar in question?" and he answered: "Did you not hear what R. Johanan said concerning a well, that its enclosures of earth are counted in with the ten spans (makes it a legal private ground), why then should they be counted, are they not useless?" We must assume that, because one can place an object upon the enclosures and thus use them. The same is the case with the peg, one might also place something upon it also.

R. Jehudah said in the name of Samuel: "If a wall be ten spans high it requires, in order to become a valid wall, a ladder fourteen spans in height, because the ladder must be placed against the wall at an angle and the distance from the foot of the ladder to the wall being four spans, the ladder loses that much before it reaches the top of the wall." R. Joseph said: "Even if the ladder be a trifle over thirteen spans high it may be used (because should it lack one span of reaching the top of the wall the deficiency is not taken into consideration)." Abayi, however, said: It matters not if the ladder be even a trifle over eleven spans high (because should it lack three spans of reaching the top of the wall, it is considered as being at the top; for the law of "lavud" is applied in all cases where there is a

deficiency of three spans or less). R. Huna the son of R. Jehoshua, however, said: The ladder may be only a trifle over seven spans in height (because it is not compulsory to place the ladder at an angle, and if placed straight at the wall, together with the three spans allowed by the law of "lavud," it reaches the top. Should the ladder even be placed at an angle it may be considered as straight at the wall and the same rule applies).

Rabh said: "I have a tradition, that a ladder standing straight against a wall also diminishes its size, but I know no reason for it." Said Samuel to him: "Does Abba not know the reason for this? Why should a ladder be worse than two benches placed one above the other? Surely it is more difficult to scale a wall by means of benches than by means of a ladder."

Rabha in the name of R. Hyya said: "Trunks of Babylonian fig-trees when placed against a wall need not be fastened, because their weight is so great, that it is very difficult to remove them, although they may be handled on Sabbath." R. Joseph in the name of R. Oshiya said: "The same applies to Babylonian ladders, which are so heavy, that there is no fear of their being removed."

R. Joseph asked Rabba: "If a man had a ladder which he desired to place against a wall and the ladder being too narrow, *i.e.*, less than four spans wide, he hewed out in the wall itself, steps on each side of the ladder, how far up should those steps be hewn out?" Rabba answered: "For a distance of ten spans." Asked R. Joseph again: "How is it if a man hews out steps four spans wide in the wall itself? How far up must he do this?" and the answer was: "The entire height of the wall." "What is the difference between the case of the ladder where steps had to be hewn out additionally and this case where the steps were all hewn out of the wall?" "In the first instance the ascent of the wall is so much easier because the ladder can be placed against the wall at an angle, while in this instance the ascent is much more difficult; hence the steps should reach the entire height of the wall."

R. Joseph asked Rabba again: "What is the law if a man used a tree, which grew right at the wall, for a ladder? I ask thee, taking into consideration the difference of opinion between Rabbi and the sages. According to Rabbi, who holds, that rabbinical ordinances were not surrounded with precautionary measures for the sake of twilight, it may be said, that in this

case, where the tree will be used during the whole Sabbath day, even Rabbi might decide that it would not be allowed to make use of the tree; and on the other hand, even according to the sages, who disagree with Rabbi as regards the precautionary measures for the sake of twilight, it may be said, that the tree might be considered as a door; which, however, cannot be used because it is regarded as if a lion lie across it; nevertheless, it *is* a door, and being such, the wall may be used. Now, shouldst thou decide, that the wall may be used if a tree grow at its side, how would it be if a grove such as is used in idolatrous worship, grow alongside of the wall? I ask thee in this instance taking into consideration the difference of opinion between R. Jehudah and the sages. We are aware that R. Jehudah permits the depositing of an Erub even in a grave, notwithstanding the fact that no benefit must be derived from a grave, but for the reason that after the Erub has been deposited for the moment of twilight the grave is of no further use as the Erub need not be watched. In this case, however, R. Jehudah might prohibit the use of a grove, because it serves a distinct purpose, namely, that of a walk to the wall, and it is a law that no benefit must be derived from a grove used for idolatrous worship. On the other hand, even according to the sages, who prohibit the use of a grave for the depositing of an Erub, it might be permitted to use the grove because it is virtually a door to the wall and is merely regarded as if a lion were lying across it, which temporarily makes it unfit for use."

Rabba answered: "A tree may be used but a grove must not." R. Hisda opposed this: "On the contrary," said he, "the lion lying across the tree which renders it unfit for use temporarily is the rabbinical ordinance concerning the Sabbath-rest, *i.e.*, the tree must not be used on account of the Sabbath, while the grove must not be used for another reason altogether, hence it should be permitted to use the grove and the use of the tree should be prohibited."

It was also taught, that when Rabhin came from Palestine, he said in the name of R. Elazar, according to another version, R. Abahu said in the name of R. Johanan: (This is the rule:) Whenever the prohibition is based upon the Sabbath-rest laws, such prohibition must stand, but whenever the prohibition is based in some other law, it need not hold good.

R. Na'hman bar Itz'hak taught: "Concerning a tree the same divergence of opinion as exists between Rabbi and the

sages remains, and concerning a grove the same difference of opinion as exists between R. Jehudah and the sages remains."

MISHNA: If two courts be separated by a ditch, ten spans deep and four wide, the inmates of each court should prepare separate Erubin and must not join in one, even though the ditch be filled with stubble or with straw. Should it however be filled with earth or pebbles, the inmates must join in one Erub and not prepare two separate ones. If a board four spans wide had been put across the ditch, and likewise, if two projecting balconies, one opposite the other, have been connected by means of such a board, or plank, the inmates of the courts may prepare separate Erubin, or if they prefer it, they may join in one; if the board, however, was less (than four spans) wide, they must each prepare a separate Erub, and not join in one.

GEMARA: The Mishna states, that if the ditch was filled with stubble or straw, the inmates of each court must make a separate Erub, because the straw is not considered firm enough to afford a safe passage over the ditch, *i.e.*, it does not constitute a solid filling for the ditch, but in the succeeding Mishna we learn, that if there be between two courts a straw-rick, the inmates of each court must prepare a separate Erub, thereby demonstrating that straw can form a solid partition? Answered Abayi: As for a partition all agree that a straw-rick can form a partition, but as for straw serving as a filling for a ditch it depends upon whether the owner has devoted it entirely for that purpose. If he did and will not remove it, it may constitute a solid filling for the ditch, but if he did not and intends to subsequently remove it, it cannot be considered such.

"*Should it however be filled with earth or pebbles.*" Even if the man who did this, does not declare that he has devoted the earth or the pebbles for that purpose entirely? Have we not learned in a Mishna, that if a man filled a room (which had contained a corpse) with straw or pebbles and declared that he does not intend to make any further use of either the straw or the pebbles, the room is regarded as filled up and is not considered a tent, but if no such declaration was made, the room *is* still considered a tent. Thus we see, that one must declare the straw and pebbles to be devoted for such purpose only, and our Mishna does not state anything in regard to this? Said R. Assi: This Mishna treating of Erubin is in accordance with the opinion of R. Jose in a Tosephta (in Tract Oholoth) who holds, that in the case of straw no express declaration is necessary.

R. Huna, the son of R. Jehoshua, however, said: Thou wouldst prove a contradiction from a law pertaining to uncleanness to a Sabbath-law? Leave out the prohibition of Sabbath; for a thing which must not be handled on Sabbath is at all events sacrificed even if it be a purse of money; because it must not be handled on Sabbath. (With straw it is different, because that is food for animals, and hence may be handled on Sabbath.)

R. Ashi, however, said: Thou wouldst base a contradiction on an ordinance concerning a room to that concerning a ditch. A ditch was made to be filled up, but is then a room also made to be filled up?

"If a board four spans wide had been put across the ditch." Said Rabha: "When must the board be four spans wide? If it was laid crosswise across the ditch, but if it was laid lengthwise across the ditch it makes no difference how wide the board is, because the width of the ditch was decreased to less than four spans."

"If two projecting balconies, one opposite the other," etc. Said Rabha: The statement in the Mishna, "one opposite the other," might be construed to signify, that if they were not directly opposite each other, no connection could be made; such is the case, however, only if they are three spans or more distant one from the other. Should they be less apart than three spans, it matters not whether they are directly opposite, diagonally so, or even one above the other, a connection may be made and it is simply considered a crooked balcony, but a balcony nevertheless.

MISHNA: If there be between two courts a straw-rick, ten spans high, the inmates of both courts must prepare separate Erubin, and must not join in one. Cattle may be fed from each side of the rick (and no fear need be entertained, that it will become less than ten spans high). Should the rick become less than ten spans high, the inmates must join in one Erub and not prepare two.

GEMARA: Said R. Huna: "(Cattle may be fed from each side of the rick), providing the straw is not removed by a man and placed in the crib of the cattle (because the straw was designated as a partition since the preceding day, hence it must not be handled)." Did we not learn in a Boraitha: "If a house which was filled with straw stand between two courts, the inmates of each court must make a separate Erub, but must not join in one, and may remove the straw from the house to their

respective courts and place it in the crib for the cattle?" Thus we see, that it is allowed for the inmates of each court to remove the straw to their respective courts and place it in the crib; why does R. Huna prohibit this? I will tell thee: In a house, on account of the roof, it will become noticeable if the heap of straw becomes lower than ten spans, but a straw-rick standing in the open air might be overlooked as to its height.

(The above Boraitha continues as follows:) "If the heap of straw contained in the house became less than ten spans high, neither of the inmates of either court are permitted to carry unless the inmates of one court resign their right to the place in favor of the inmates of the other." Thus, if the heap of straw *was* ten spans high, it still serves the purpose of a partition, even though it does not reach the ceiling. We may adduce therefrom, that any partition if it be only ten spans high, though it should not reach the ceiling, is valid. From the statement in the Boraitha, that neither of the inmates of either court are permitted to carry we can also infer, that any dwellings which may have been added on the Sabbath are included in the prohibition? This is not conclusive evidence! It may be that the Boraitha refers to a case where the heap of straw was diminished to less than ten spans' height before the Sabbath set in.

The Boraitha continues further: "The one wishing to make use of his court should lock up the house and resign his right to the ground." What, do both? Lock the house and resign his right to the ground? Yea; both are necessary, for the man is accustomed to use the house on Sabbath,* and he might perchance, if he leave it unlocked, come and use it.

Continuing, the Boraitha states: "If he did so, he must not carry, but his neighbor may." Is this not self-evident? We might assume that the man's neighbor must also do as he did, hence we are told, that the Tana holds repeated resignation of the ground to be prohibited.

MISHNA: How are alleys (entries) to be combined? A man places a cask of wine (in the alley) and says: "This shall be for all the inmates of the alley," and he may transfer the right of possession (which he has in the cask) to them either through his adult son or daughter, or through his Hebrew man-

* Rashi asserts, that the Tana of this Boraitha maintains, that all those who resign their right to the ground of their houses should also lock them, but Tosphath does not agree with Rashi.

servant or maid-servant, or through his wife; but he cannot transfer his right of possession through his minor son or daughter, or through his Canaanitish bond-man or bond-woman, because their hand is virtually the same as his.

GEMARA: Said R. Jehudah: The person that accepts the transfer of ownership should lift the cask of wine at least one span from the ground at the time of acceptance (saying, I have accepted this for the other inmates). Said Rabha: These two things were said by the old sages of Pumbaditha, namely: This statement of R. Jehudah just quoted and the other one is: When a man pronounces the benediction over a goblet of wine, if he tastes a whole mouthful he has acquitted himself of the duty properly, otherwise he does not.

An objection was raised: We have learned in a Boraitha: How are alleys to be combined? A cask of wine, oil, dates, or figs, or any other fruit, is brought, and if belonging to the one who brought it, he should transfer his right of possession to the other inmates; but if the others have a share in it to commence with, he need only inform them (that he has combined the Erub for them). While transferring the right of possession, the cask should be lifted off the ground a trifle? By a trifle the Boraitha also means a span.

It was taught: At the combining of alleys, the right of possession need not be transferred. So said Rabh; but Samuel maintains, that this must be done. At the combining of the legal limits, however, Samuel declares that the right of possession must be transferred, while Rabh holds, that it is not necessary.

Samuel may be right in his opinion, because he holds in accordance with our Mishna, which teaches, that at the combining of alleys, the right of ownership must be transferred, and at the combining of legal limits nothing is said about transfer, but upon what does Rabh base his opinion? There is a difference of opinion among Tanaim concerning this ordinance as R. Jehudah said in the name of Rabh: "It happened that the daughter-in-law of R. Oshiya went to the bath-house, and not returning before dusk, her mother-in-law made an Erub for her. When this was told to R. Hyya, he declared it unlawful. Said R. Ishmael bar R. Jose to him: Thou Babylonian! So strict art thou with Erubin. Then said my father: Whatever can be made more lenient with regard to Erubin, should so be made."

Said R. Zera to R. Jacob, the son of the daughter of Jacob:

"When thou goest to Palestine, go out of thy way and pass through Tyre and ask of R. Jacob bar Idi how the case was: Did the mother-in-law make an Erub with her own material, and on account of not transferring her ownership to her daughter-in-law, R. Hyya held it to be unlawful, or did she make it with material belonging to her daughter-in-law and R. Hyya held it to be unlawful because the daughter-in-law was not informed?" R. Jacob bar Idi answered, that it was on account of the ownership not having been transferred.

R. Na'hman said: "We are in possession of a tradition which teaches us, that whether Erubin of legal limits or Erubin of courts or combinations of entries are concerned, a transfer of ownership must be effected. Now the question arises as to Erubin of cooked articles,* whether a transfer of ownership is necessary or not." Said R. Jose: "What question is this? Did R. Na'hman not hear the dictum of R. Na'hman bar R. Ada in the name of Samuel, that in the case of Erubin of cooked articles a transfer of ownership must also be effected?" Replied Abayi: "Assuredly he did not hear this dictum or he would not have asked." Rejoined R. Jose: "Did not Samuel say that in the case of Erubin of courts a transfer of ownership is not necessary and still R. Na'hman maintains that it is?" Abayi then said: "How can this be compared? In the case of Erubin of courts and legal limits there is a difference of opinion between Rabh and Samuel, while R. Na'hman accepts the more rigorous decrees of each, but in this instance how could R. Na'hman override the absolute decree of Samuel alone?"

There was a guard of the arsenal living in the neighborhood of R. Zera. His neighbors asked him to rent them his place for the Sabbath, but he refused. So R. Zera was asked whether the place may be rented from the man's wife, who was willing to do so. He answered them: "Thus said Resh Lakish in the name of a great man, *i.e.*, R. Hanina: A man's wife may effect an Erub without the man's knowledge (or against his will)."

The same case occurred in the neighborhood of R. Jehudah

* Erubin of cooked articles, called in Hebrew "Erubin Thabhshilin." When a Sabbath follows a festival, no food must be cooked on the festival for the Sabbath, but in order to circumvent this ordinance the Rabbis decreed that two different kinds of food be set aside on the eve of the festival to serve for the Sabbath and thus enable the people to cook, in addition to the food set aside, on the festival in order to provide for the Sabbath.

bar Oshiya, and when asked concerning the law in the **matter**, he did not know. R. Mathna could not solve the problem either. When R. Jehudah, however, asked, he answered in the name of Samuel the dictum attributed above to R. Hanina.

An objection was raised: We have learned in a Boraitha: "If women made an Erub or combined in an alley without the knowledge of their husbands, the Erub and the combination are both unlawful." This presents no difficulty. The Boraitha refers to a case, where the husbands distinctly forbid their wives to do so, whereas Samuel refers to a case, where the husbands did not forbid them. Such seems to be the case, for were it not so Samuel would contradict himself as he said elsewhere: If one of the inmates of the alley who, as a rule, combined with the others, refused to do so at one time, the other inmates may enter his house and take his share against his will. Thus we see, that only if the man, *as a rule*, combined but (out of spite) refused in one instance, then and then *only* the other inmates may take his share by force; but if he was not in the habit of combining, this would not be allowed. Hence this bears it out.

Can we assume that the following Boraitha is in support of the decree of Samuel? (It teaches:) "It is permitted to compel a man to take a share in the erection of a side and cross beam to an entry, if he refuses to do so voluntarily." In the case of an entry it is different, because there were no partitions (hence it was difficult to watch the entry). According to another interpretation, Where an act is committed out of spite, with the intention to injure another, it is different (*i.e.*, a man may be compelled to desist as explained in Chapter IV., page 109).*

* What we have rendered above with "Where an act is committed out of spite, etc., it is different," is expressed in the Hebrew original with but two words, viz.: "Metzad She'ani," literally, "from the side it is different." The marginal notes in the original also state that no explanation for the two words can be found, and in the monographs printed in Venice and Saloniki some two centuries ago, this other version is omitted entirely. In a manuscript of the Talmud, examined by R. N. Rabinowicz, it is also not to be found. According to our method, always to render the other version, because it is invariably more reasonable than the first, we should have omitted the first here also, and more especially so, as it is very abstruse. However, the other version is even more so if read as written. After considerable speculation, however, as to its meaning, we found that it is merely a misprint, and instead of "Metzad She'ani" should read "Métzar She'ani." The misprint is the more excusable because of the extreme similarity of a Hebrew Daled ד and a Resh ר. Métzar She'ani means "With one who wishes to injure another, it is different," and this was just the case referred to by Samuel, who, according to Rashi, refers to one

It was taught: R. Hyya bar Ashi said: "A side-beam may be made of a grove." R. Simeon ben Lakish said: "A cross-beam may be made of a grove." One who says, that a cross-beam may be made of a grove certainly permits a side-beam also to be made of a grove; but he who says, that a side-beam may be made thus, does not permit a cross-beam. Why so? Because a cross-beam must be sound enough to hold a brick one span thick, and as a grove (being used for idolatry) must be burned, it is considered as if it were already burned, hence not sound enough to hold a brick of the prescribed thickness.

MISHNA: If the quantity of food (required for the combination) become diminished, one may (himself) add thereto and transfer his right of possession without notifying the other inmates (to that effect). If, however, new inhabitants have (since) arrived in the alley, he adds sufficient to make up the required legal quantity, transfers his right of possession to them and notifies them to that effect. How much is this legal quantity (of food required for the combination of alleys)? If those who join therein are numerous, it must be sufficient for two meals for all of them; but if they be few, the size of a dried fig for each is sufficient.

R. Jose said: "To what does this regulation apply? To the original (first) preparation of the Erub; but to extend the Erub (for later use) any quantity, however small, is sufficient. Nor did the sages direct that (where the combinations of an alley had been effected) an Erub should be prepared for the several courts (contained in the alley) except that the children might not forget about the law of Erub.

GEMARA: What food does the Mishna refer to as having become diminished? Shall we assume, that it was but one kind of food, then even had it been totally destroyed, it was not necessary to notify the other inmates; if on the other hand there were two kinds of food, then, even, if it became diminished, the man was in duty bound to notify the other inmates, as we have learned in a Boraitha: "If the food was all of one kind and was totally destroyed, one need not notify the other inmates; but if the food was of two different kinds, one must notify the other inmates." (It was assumed that the same law applied to food

who, out of spite, would not combine, so that the other inmates of the alley would be prevented from carrying on the Sabbath; hence, in this instance no further explanation by Rashi was necessary.

that had merely become diminished, but the Gemara answered :) "The Boraitha refers to food that had been totally destroyed, but with food that had become diminished, it is different."

"*How much is this legal quantity?*" etc. What does the Mishna mean to say by "numerous"? Said R. Jehudah in the name of Samuel: "Eighteen persons." Eighteen and not more? Say, from eighteen on and upwards. Then why state eighteen in the first place? Said R. Itz'hak the son of R. Jehudah: My father explained this to me thus: If the food were divided equally amongst all and the share of each for two meals would not amount to the size of a dried fig, then those who took part were "numerous," and it is sufficient if the share of each did not amount to the size of a dried fig; but if the share of each amounted to more than the size of a dried fig, those who took part are considered few, and even if each received but the size of one dried fig, it is sufficient. (Thus both are the more lenient constructions of the law.) Incidentally we are told by R. Jehudah that eighteen dried figs are sufficient for two meals.

MISHNA: The Erub (of courts) or combination (of alleys) may be effected with all kinds of nutriment except water and salt. Such is the dictum of R. Eliezer. R. Jehoshua, however, said: Only a whole loaf of bread is a lawful Erub. Should even a whole saah of flour be baked into one loaf, and that be broken, it must not be used for an Erub, while a small loaf of the value of an Eesar (a small coin; probably the Roman "as"), if it be whole, may be used for an Erub.

GEMARA: Have we not already learned the first clause of this Mishna (in Chapter III., Mishna 1), that the Erub or combination may be effected with all kinds of nutriment except water and salt? Said Rabba bar bar Hana: This Mishna repeats the ordinance solely on account of R. Jehoshua, who maintains, that only a whole loaf is a lawful Erub, but not a broken loaf. Hence we are taught that with *all kinds* of nutriment it may be effected, including a broken loaf.

What reason has R. Jehoshua for his assertion? Said R. Jose ben Saul in the name of Rabbi: "In order to prevent enmity (lest one say he deposited a whole loaf and another a broken loaf, etc.)." Said R. A'ha the son of Rabba to R. Ashi: "How is it if all deposited broken loaves?" and R. Ashi answered: "There is fear that the next time the Erubin are deposited there will be the same strife. One will deposit a whole loaf and another a broken one, etc."

R. Johanan ben Saul said: "If from a whole loaf of bread the legal first dough (offering) has been removed or from a whole loaf of bread made of Therumah and ordinary flour the legal one-hundredth part had been removed, the loaf is still considered whole, and an Erub may be effected therewith." Did we not learn in a Boraitha, that the loaf remains whole, and may be used for an Erub if the legal one-hundredth part had been removed, but if the quantity of the legal first dough had been removed it does not remain whole and must not be used for an Erub? This presents no difficulty. R. Johanan refers to the loaf of a baker who must remove only a small piece for the first dough, while the Boraitha refers to a loaf of a householder as we have learned in a Mishna (Tract Chalah): "The prescribed quantity for the first dough is one twenty-fourth. One who prepares the dough for his own use or for the wedding (feast) of his son must also give one twenty-fourth; but a baker, or even a woman who prepares the dough for sale in the market, need only give one forty-eighth as the legal first dough."

R. Hisda said: "If a man made a loaf whole again by joining the broken pieces with a stick of wood, so that it appeared like an unbroken loaf, he may use it for an Erub."

Said R. Zera in the name of Samuel: "It is permitted to make an Erub with bread made of rice or millet." Said Mar Uqba: "Samuel the Master explained to me that rice-bread may be used for an Erub but not millet-bread." R. Hyya bar Abhin in the name of Rahl said: It is also permitted to make an Erub with lentil-bread.

MISHNA: A man may give money to the wine-seller or baker in order to acquire the right to join in the Erub. Such is the dictum of R. Eliezer; but the sages hold, that money cannot acquire the right for a person to join in the Erub. They admit, however, that if a man give money to another person (with the commission to effect the Erub for him) it will acquire for him the right to join in the Erub, since no Erub can be effected for a man without his knowledge. Said R. Jehudah: To what do these (preceding) regulations apply? To the Erubin of limits; in the Erubin of courts, however, a man may be included with or without his knowledge; for advantages may be conferred on a person, even though he be not present, whereas, he must not be deprived of his right in his absence.

GEMARA: What reason has R. Eliezer for his dictum? The person giving the money to the wine-seller or the baker

did not draw his purchase toward him, hence no sale or purchase was effected.*

Answered R. Na'hman in the name of Rabba bar Abahu: "R. Eliezer makes this case analogous with the case mentioned in the Mishna (Tract Cholin, Chapter V., Mishna 4) concerning a man who purchases one dinar's worth meat and the butcher is compelled to slaughter for him an ox worth one thousand dinars. The question there is propounded by the Gemara: 'How can the sale be effective? No drawing towards himself was accomplished by the purchaser?' and the answer was that the Meshi'kha (drawing) was dispensed with for the sake of the advantage which was to be conferred on the purchaser on the four days or periods enumerated. In this case of our Mishna the Meshi'kha is also dispensed with and for the same reason, or according to the reason of another sage in the mentioned Tract (Cholin) who said that according to biblical law a sale is effective when the money for the purchase is paid."

"*They admit, however, that if a man give money to another,*" etc. What is meant by "another person"? Said Rabh: "A householder," and Samuel agrees with him, meaning, that this other person must be a householder and not a baker (or a wine-seller). Samuel added, that only if the man gave *money* to the baker he cannot acquire the right to join in the Erub, but if he gave him a vessel he does acquire the right. Also if when giving him the money, he does not say to him: "With this money thou shalt give me bread sufficient to make an Erub," but says: "For this money thou shalt go and effect an Erub for me," then it is as if he merely commissioned him to effect his Erub and he acquires the right to join in the Erub.

"*Said R. Jehudah: To what do these ordinances apply?*" etc. R. Jehudah in the name of Samuel said: "The Halakh'a prevails according to R. Jehudah, not only in this case, but in all instances where R. Jehudah decrees concerning Erubin, the Halakha prevails in accordance with his dictum." Said R. Hana of Bagdad to him: "Does Samuel hold, that even in the case where R. Jehudah declares an entry, from which the side and cross beams had been removed, valid, the Halakha prevails

* A sale or a purchase was not binding or effective unless the purchaser at the time of the purchase drew the object bought towards him, and this act of drawing towards him is called in the Talmud Meshi'kha, based upon the passage, Exod. xii. 21.

accordingly?" Answered R. Jehudah: "Did I not state particularly concerning Erubin, but not concerning partitions?"

Said R. A'ha the son of Rabha to R. Ashi: "If it is said, that the Halakha prevails according to R. Jehudah, then there must be some who disagree with him?" Did not R. Jehoshua ben Levi say, that whenever we find in a Mishna the statement: "Said R. Jehudah: 'When is this the case?' or 'When do these regulations apply?'" it is not to be accepted as a refutation of previous decrees, but merely as a further explanation of the decree of the sages? [How can it be said, that it is not to be accepted as a refutation? Did we not learn in a previous Mishna, that if additional inhabitants came into the alley, the right of possession must be transferred to them and they must be notified, whereas R. Jehudah states, that no notification is necessary? The previous Mishna refers to a court between two alleys when the inhabitants newly arrived must be notified that the Erub was effected in one of the alleys (and R. Jehudah would agree to this also). Did not R. Shezbi say in the name of R. Hisda, that the previous Mishna distinctly states, that the colleagues of R. Jehudah differ with his dictum in this last Mishna?] Answered R. Ashi (the previous question of R. A'ha): Wouldst thou make a contradiction from one man to another? Samuel may hold one thing and R. Jehoshua ben Levi another.

Referring again to the statement of R. Jehoshua ben Levi, R. Johanan said, that whenever R. Jehudah says: "When is this the case?" he means to explain the previous teachings, but whenever he says, "When do these regulations apply?" he means to differ from the foregoing opinions.

CHAPTER VIII.

REGULATIONS CONCERNING THE ERUBIN OF LIMITS. THE QUANTITY OF FOOD REQUIRED FOR SUCH ERUBIN, AND FURTHER REGULATIONS CONCERNING ERUBIN OF COURTS.

MISHNA: How are the (legal) limits to be combined? A man places a cask (of wine) and says: "This is for all my townsmen or for all who go to the house of mourning, and for all who go to the house of feasting." Whosoever joins in the combination while it is yet day (on the eve of Sabbath) is permitted to do so; after dusk, however, it is prohibited, because an Erub must not be deposited after dark.

GEMARA: Said R. Joseph: "Legal limits should not be combined except for religious duties." Is this not expressed in the Mishna? It says for all who go to the house of mourning or the house of feasting? R. Joseph teaches that the limits should not be combined except for religious duties, lest it might be assumed, that the Mishna merely makes this a general assertion; because people are wont to go to such places on the Sabbath.

The Mishna states "while it is yet day." Shall we adduce therefrom that the Mishna holds, there is no such thing as the theory of premeditated choice? For were it said, that the Mishna accepts the theory, the fact that the man would make use of the legal limits on the Sabbath would demonstrate that he had the intention to do so on the previous day. Said R. Ashi: By "while it is yet day" is meant if the man was notified of the combination while it was yet day, even though he did not agree to it until after dusk; but if he was not notified while it was yet day, he could have no intention to do so previously, and hence he cannot join in the combination.

R. Assi said: "A child that is only six years old may go out in the legal limits which have been combined by its mother." An objection was made based upon a Boraitha stating: "A child still dependent upon its mother may go out in the limits com-

bined by its mother; but if it is no longer dependent upon its mother it must not." Said R. Jehoshua the son of R. Idi: "R. Assi means to say still more, that even if the father had combined him in his Erub towards the north and his mother combined an Erub for herself towards the south, a child even six years old prefers to go with its mother."

Another objection was made: We have learned in another Boraitha: A child which is dependent upon its mother may go out with her in the limits which she has combined until it reaches the age of six years. (Hence when it is six years old it must not?) R. Assi might say that *until* six years includes six years.

We have learned in a Boraitha: A man should not combine an Erub for his adult son or daughter or for his Hebrew man or maid servant, or for his wife, unless he notifies them to that effect. He may however combine an Erub for his Canaanitish bond-man or bond-woman or for his minor son or daughter even without their consent because their hand is virtually the same as his. If, however, all those mentioned in the Boraitha have combined an Erub for themselves in one direction, and the master combined an Erub for them in another, they must all make use of the one which the master combined, excepting only his wife, because she can object.

Why should the wife only be excepted? Cannot the other persons mentioned in the first clause of the Mishna also object? Said Rabba: "The wife and those equal to her (mentioned with her) are meant to be excepted, and by 'all those mentioned in the Boraitha' is meant the persons enumerated in the *latter clause* of the Boraitha."

The master said: "Excepting only his wife, because she can object." Shall we say, that only if she objects she may use her own limits, but if she does not, she may go out in the limits combined by her husband? Does not the Boraitha mean to state that he must notify them and obtain their consent? (Then why must she object if she previously did not give her consent?) Nay; the Boraitha means to state that he must merely notify them, and if they make no answer it is the same as if they agreed to it.

The Boraitha states again, however, that if they made an Erub for themselves and the master made another one for them they must utilize that of the master; this must have been the case where they did not object when notified that the master would combine the Erub for them. "Excepting only the wife

who can object?" How is this consistent? Said Rabha: "Is the fact of their making a separate Erub not sufficient objection?"

MISHNA: How much is the legal quantity (of food required to effect the combination of limits)? Sufficient food for two meals for everyone who joins therein; for work-day meals but not for Sabbath-meals. Such is the dictum of R. Meir; but R. Jehudah said: For Sabbath-meals, but not for work-day meals. Both (sages), however, intend to render the observance of this regulation more lenient. R. Johanan ben Berokah said: It is sufficient to effect the combination if the loaf used therefor be worth a Pundian, when the price of flour is one selah for four saah. R. Simeon said: Two-thirds of a loaf (is sufficient), such as go three to one kabh of flour. (The time it takes to eat) half (of such a loaf, is the prescribed time for remaining) in the house of a leper,* and the half of a half of such a loaf (which were it it unclean) would make the body unclean.†

GEMARA: How much food constitutes food for two meals? Said R. Jehudah in the name of Rabh: "Two loaves as used by the peasants in the field." R. Ada bar Ahabha said: "Two loaves as baked by the inhabitants of N'har Pepitha (Papa)."

R. Joseph said to R. Joseph the son of Rabha: "In accordance with whose opinion does thy father hold concerning the two meals. Doubtless with that of R. Meir? I also hold with R. Meir; for if the opinion of R. Jehudah were accepted, why do people say, that the stomach always has room for sweet things?"

"*R. Johanan ben Berokah said,*" etc. We have learned in a Boraitha, that there is not much difference between the quantity prescribed by R. Johanan and that prescribed by R. Simeon. How can this be said? According to R. Johanan one kabh will provide four meals, and according to R. Simeon one kabh will produce nine meals? Said R. Hisda: "Deduct one-third as the profit of the dealer." Then according to R. Johanan one kabh will provide six meals and according to R. Simeon nine. Say in accordance with the dictum of R. Hisda at another time, that one half should be deducted as the profit of the dealer. Then

* One who remains in the house of a leper the length of time required to eat half of such a loaf, renders his clothes unclean and must wash them (as explained in Tract Negayim).

† One who eats a fourth of such a loaf which has become unclean, renders himself unclean and cannot partake of any consecrated thing until he has bathed (as will be explained in Tract Oholeth).

according to one a kabh contains sufficient for eight meals and according to the other, nine.* Hence we have already heard that there was *not much* difference between R. Simeon and R. Johanan.

Now there is a contradiction in two of R. Hisda's statements? This presents no difficulty. One of his statements referred to a case where the wood for the baking was furnished while the other refers to a case where the purchaser had to furnish it himself.

The Rabbis taught: It is written [Numbers xv. 20]: "As the fruit of your doughs shall ye set aside a cake for a heave-offering," which signifies, that the first of the doughs that were prepared at that time should be set aside. How much was the dough prepared in the desert? It is written [Exodus xvi. 36]: "But the omer is a tenth of an ephah." They usually prepared an omer for each person (and an ephah is three saahs), whence they adduced that three saahs being equal to seventy-two lugs, an omer is equal to seven and one-fifth lugs, and when dough measures that quantity it is subject to the first dough offering. These seven and one-fifth lugs, according to Babylonian measure, are only six lugs in Jerusalem, and five in Sepphoris. From this it was also adduced that one who eats that much in a day is healthy and blessed. One who eats more than this is a glutton and one who eats less than that has a weak stomach.

MISHNA: If the inhabitants of a court and the inhabitants of a balcony should have forgotten to combine an Erub, whatever is above ten spans from the ground is considered as belonging to the balcony, and whatever is less than ten spans high from the ground is considered as belonging to the court. If the earth dug out of a ditch, or a stone, be ten spans high, they belong to the balcony; but if less than ten spans high they belong to the court. When is this the case? If the earth (heap) or the stone be close to the balcony, but if some distance away from the balcony, even though they be ten spans high, they belong to the court. What is considered close? Whatever is less than four spans distance.

* In order to explain this problem mathematically it must be borne in mind that a Kabh is equal to 2 Saah and a Pundian is equal to $\frac{1}{4}$ Selah. Hence if $\frac{1}{2}$ be allowed the dealer for baking the loaf, according to R. Johanan the loaf will be equal to $\frac{1}{2}$ of a Kabh minus $\frac{1}{4}$ of $\frac{1}{2}$ or in other words $\frac{1}{4}$ of a Kabh, while, according to R. Simeon, a loaf is $\frac{2}{3}$ of $\frac{1}{2}$ of a Kabh or $\frac{1}{3}$. If $\frac{2}{3}$ of a Kabh constitute sufficient for 2 meals, then 1 Kabh provides 9 meals, and according to R. Johanan 6.

GEMARA: If the object standing between the court and the balcony is easily accessible to both the same as a door, it is considered as if it were an aperture between two courts. If it is not easily accessible but both the inmates of the courts and of the balcony can throw things on it with equal facility it is equal to a wall between two courts. If both the inmates of the court and the balcony can with equal ease deposit things upon that object it is considered as a ditch between two courts; but if the object be easily accessible to one but was not as easily reached by the other, it is the same as the ditch mentioned by R. Shezbi in the name of R. Na'hman, which was level with the ground of one court. If the object was easily accessible to one but could only be reached by throwing by the other, it is the same as the wall mentioned by Rabba bar R. Huna in the name of R. Na'hman, which was level with the ground of one court. The question, however, is concerning an object which by the inmates of the court could only be reached by throwing and by the inmates of the balcony could only be reached by letting down an article upon it. Rabh said: "It must not be used by either"; but Samuel said: "It is given to those who can reach it by letting down something upon it because that is the easier way of reaching it; and it is a rule that whoever can reach an object the more easily is entitled to it."

An objection was made: Come and hear: If the inhabitants of a court and the inhabitants of an attic had forgotten to combine in an Erub, the inhabitants of the court may utilize the lower ten spans and the inhabitants of the attic may use the upper ten spans. How so? If a cornice project from the wall at a distance of less than ten spans from the ground it may be used by the inhabitants of the court, but if it project at a distance of less than ten spans below the attic, it may be used by the inmates of the attic. If, however, the cornice was just between the ten spans above the ground and the ten spans below the attic it appears that neither can make use of it, and this would be in accordance with the opinion of Rabh and an objection to Samuel. Said R. Na'hman: "The case treated of by the above Boraitha is where the entire wall was only nineteen spans high and if the cornice was less than ten spans high from the ground it was easily accessible to the court-inhabitants the same as a door would be, but not so easily reached by the inhabitants of the attic (hence the court is entitled to it). If the cornice was above ten spans from the ground it was easily accessible

to the inmates of the attic but not so to the court-inhabitants, who would have to throw in order to reach it (hence the attic is entitled to it)."

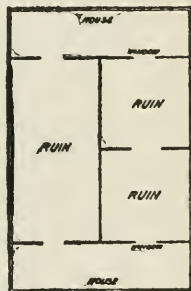
R. Jehudah in the name of Samuel said: "If between two courts there was a small alley, into which the doors of the courts did not open, but which contained a well four spans distant from the wall of each court, the inhabitants of each court may put up a projecting board no matter how small on top of the wall, and draw water from the well through their windows. (In reality this was unnecessary, because the alley was not used as a thoroughfare, but as the two courts had not joined in an Erub and used the well in common the boards were erected as a sign)."

R. Jehudah himself continued: "A projecting board is not necessary, for even any small stick is sufficient."

Said Abayi to R. Joseph: "The statement of R. Jehudah on his own account was also made in conformity with the opinion of Samuel, for according to Rabh, where a place is not used as a thoroughfare it cannot prove an impediment to the adjoining grounds."

Said R. Na'hman in the name of Rabba bar Abahu, quoting Rabh: If there were three ruins between two houses, each house may use the adjoining ruin by throwing therein, but the middle ruin must not be used by either of the two houses.

R. Brona was sitting and proclaiming this Halakha. Said R. Eliezer, one of the schoolmen, to him: "Did Rabh indeed say this?" and he answered: "Yea; he did." So R. Eliezer requested that he be shown where Rabh resided. This was done, and coming before Rabh he inquired: "Did Master indeed say this?" and he answered, "Yea." Said R. Eliezer: "Did Master not say, that if an object is not easily accessible to both, it must not be used by either?" Answered Rabh: "Dost thou then think, that I had reference to three ruins, that stood one after the other between two houses? I was speaking of ruins that stood two on one side and one of the size of both on the other (as shown in accompanying illustration). Now as regards the ruins into which the windows open, from the fact that access is gained by means of windows, or in other words through the atmosphere, they are permitted to be used in accordance with the opinion previously rendered that a place where there is no thor-



oughfare does not prove an impediment to adjoining ground. Even in this case, where the ruins being naturally broken it might be said that the atmosphere of one mingling with the other renders both unlawful for use, I have already decided, that atmosphere cannot produce such a condition. As for the other ruin, which both can reach by means of the small opening at the bottom it is not as if they were reached through the atmosphere but by actual contact. Hence the ruin being directly between the two houses cannot be used unless an Erub had been combined."

MISHNA: If a man deposit his Erub (for the combination of courts) in a vestibule, gallery, or balcony, it is not a lawful Erub. Should a man reside in any such place, who has not joined in the Erub, he cannot prevent the other inmates of the court (from carrying therein). If a man deposit his Erub in a hay-loft, or in a stable, or in a woodshed, or in a granary, it is a legal Erub, and one who dwells there (if he had not joined in the Erub) impedes the other inmates of the court. R. Jehudah said: If the householder has reserved the right of access thereto (to such a loft, stable, shed, or granary), he who dwells there does not impede the other inmates of the court.

GEMARA: Said R. Jehudah the son of R. Samuel bar Silas*: In all cases where the sages decree that if a man reside in a certain place (and had forgotten to join in the Erub) he does not impede the others, an Erub which he might deposit in such a place is not legal, excepting only in the case of a vestibule belonging to an individual, and in all cases where the sages decree that an Erub must not be deposited in a certain place, it is permitted to effect the combination of alleys in such a place, excepting only the atmosphere of an entry (that is, in the air above the ground of the entry).

R. Jehudah again said in the name of Samuel: "If a company was seated at table on the eve of Sabbath and the Sabbath set in, the bread lying on the table may be depended upon to serve as an Erub and according to another version it may serve as the combination of the alley." Said Rabba: "They do not differ. Those who say that the bread serves for an Erub (of the court) refer to a case where the table was situated in the house,

* At times the name Silas is also called Shila in the Talmud, and while the same person is meant, still we render it according to the manner in which it appears in the original.

and those who say that it may serve as a combination of alleys refer to a case where the table was in the court." Said Abayi to him: "I know of a Boraitha, which will bear out thy opinion, viz.: 'Erubin of courts must be made in the courts, combinations of alleys must be effected in the alleys.' After deliberating upon this Boraitha we decided that it could not be so, for we have learned in our Mishna that if a man deposit his Erub (of courts) in a vestibule, gallery, or balcony, it is not a lawful Erub, and the conclusion was that the statement of the Boraitha to the effect that the Erubin must be made in the courts in reality means, that they should be made in the houses contained in the courts, and the combination of alley should be made not in the alleys proper but in the courts opening into the alleys."

"*R. Jehudah said: If the householder has reserved the right of access,*" etc. What is meant by the right of access? The privilege as held by Bunayis ben Bunayis (according to the Aruch Ben Nanas), who was a very wealthy man and would loan his houses for the use of the other inhabitants, but would reserve the right to store his utensils in such houses. At one time he came before Rabbi; said Rabbi: "Make room for a man who has a hundred golden minas."* Later another man came along and (thinking that he was the wealthier) Rabbi said: "Make room for a man who has two hundred golden minas." Said R. Ishmael the son of R. Jose to Rabbi: "Rabbi, the father of this (first) man (Bunayis) hath a thousand ships in the sea and a thousand cities on land." Said Rabbi to him: "When thou shouldst see his father, tell him, not to send his son to Rabbi dressed so poorly, because it is Rabbi's wont to honor rich men."

R. Aqiba would also honor rich men, as Rabha bar Mari preached: "It is written [Psalms lxi. 8]: 'May he abide forever before God: ordain that kindness and truth may guard him,' which signifies: When can he abide forever before God? If rich men guard him with kindness and truth so that he know not want."

Rabba bar bar Hana said: "What is meant by the right of access? If a man have in the house (any utensil) even a plough-share." Said R. Na'hman: "The disciples of Samuel said on the contrary: Only an utensil which may not be handled on the Sabbath gives a man the right of access to a house, but an uten-

* A mina was at one time of the value of 100 Zuz, but later its value was increased to 60 Shekel or Sela, which is equal to 240 Zuz.

sil which may be handled on Sabbath does not, because he might come and remove it." The same was also taught in a Boraitha.

MISHNA: If a man leave his house and goes to take his Sabbath-rest in another town (without previously joining in the Erub), be he a Gentile or an Israelite, he thereby prevents the other inmates of his court from carrying within it. Such is the dictum of R. Meir. R. Jehudah saith: "He does not prevent the others." R. Jose saith: "A Gentile prevents the others, but an Israelite does not, as it is not usual for an Israelite to return on the day of rest." R. Simeon saith: Even if the man left his house and had gone to take his Sabbath-rest with his daughter, in the same town, he does not prevent the other inmates, since he has in thought renounced his abode for the time being.

GEMARA: Said Rabh: The Halakha prevails according to R. Simeon, but only if the man went to take his Sabbath-rest *with his daughter*; if, however, he went to take his Sabbath-rest *with his son* he does not renounce his own abode for the time being; for people say: "If thou hearest a dog bark in a house thou canst enter without fear; but if thou shouldst hear little pups squeal and their mother bark at thee, do not enter" (meaning that a father is not apt to quarrel with his daughter and return to his abode, but he may do so with his daughter-in-law and be compelled to return to his own home).

MISHNA: If there be a well between two courts it is not lawful to draw water therefrom (on Sabbath), unless a partition be made ten hands high either below (within the water) or at the edge of the well. R. Simeon ben Gamaliel said: "Beth Shammai hold, that the partition must be made below; but Beth Hillel maintain that it must be made above." Said R. Jehudah: The partition is not more effective than the wall which is between the two courts.

GEMARA: Said R. Huna: "By saying that the partition must be made below, Beth Shammai mean, that it should be within the well but not so as to touch the water, and Beth Hillel by maintaining that it should be made above, mean, that it should be erected over the well. Both agree, however, that the partition must not be outside of the well proper, but within its enclosures." Beth Hillel's reason for the decree is that wherever water is concerned the ordinances are to be construed in as lenient a manner as possible, as we have learned from R. Tabla's question and Rabh's answer (see page 24).

"Said R. Jehudah: The partition is no more effective," etc. Said Rabba: R. Jehudah and R. Hananiah ben Aqabia said virtually the same thing. R. Jehudah said what we have learned in the Mishna and R. Hananiah ben Aqabia as we have learned in the Boraitha, viz.: "In a balcony four ells square a hole four spans square may be cut out and water may be drawn through that hole (and although there were no partitions surrounding the balcony, it is considered as if it reached the ground by the application of the law of *Gud Achith* *). So said R. Hananiah ben Aqabia." (This is virtually the same as the opinion of R. Jehudah in our Mishna.) Said Abayi to Rabba: "Perhaps this is not so! R. Jehudah, who says, that no separate partition is necessary, does so because he holds, that the wall between the two courts suffices as a partition for the well also; consequently he considers the wall as reaching down as far as the well; but, in the case of the balcony, where there is no partition at all to commence with, the balcony must first be inclined into a standing position and then be considered as reaching down as far as the well. Now while R. Jehudah may hold that the wall may be considered as if it reached down to the well, it does not follow that he also permits of a previous imaginary inclination of the balcony in addition to the supposition that it reaches down to the well and thus forms a valid partition. On the other hand, R. Hananiah ben Aqabia, who permits of both the imaginary inclination of the balcony and the supposition that it reaches down as far as the water, may have applied this only to a balcony which was erected above the sea of Tiberias, which is surrounded by cities, banks, and woodsheds, but in the case of a balcony erected above any other waters he might not have permitted even as much as R. Jehudah."

Said R. Huna the son of R. Jehoshua: If the well stood in a corner between two courts, the partition to be erected on the other side of the well (which is not between the two walls) should be ten spans high and a span and a trifle wide on each side (and when applying the law of *Lavud* to the partition on both sides a partition will be effected on every side of the well, providing the well was only four spans square).

MISHNA: If a canal runs through a court, it is not lawful to draw water therefrom (on Sabbath), unless there be a partition ten spans high where the canal flows into the court and

* For explanation of *Gud*, see note to page 7.

another where it flows out again. R. Jehudah said: "The wall above is to be considered a partition." R. Jehudah further said: "It happened, that water was drawn from the canal around the walls of a town (the moat) on the Sabbath with the sanction of the elders," but the sages replied: "That was done, because the canal was not of the legal size (of four spans width)."

GEMARA: The Rabbis taught: If a partition was made where the canal flowed into the court but not where it flowed out of the court, or if it was made where the canal flowed out but not where it flowed in, it is not lawful to draw water therefrom on the Sabbath unless there was a partition both where the canal flowed into and out of the court. R. Jehudah, however, said: "The wall above the canal may serve as the partition."

Said R. Jehudah: "It happened that water was drawn from the canal flowing into the city of Sepphoris from the walls around it* (the canal flowing from the moat) with the sanction of the elders," but the sages said to him: "Wouldst thou place this in evidence? In that case the canal was not ten spans deep nor four spans wide."

We have learned in another Boraitha: "A canal which flows between two walls which contained apertures, if it was less than three spans wide, a bucket may be let down from the apertures and water drawn from the canal; but if it was over three spans wide this must not be done (on Sabbath). R. Simeon ben Gamaliel, however, says, that if the canal was less than four spans wide, water may be drawn therefrom, but if over four spans, this must not be done." In which class of legal ground can such a canal be placed? Shall we say: in the class of unclaimed ground? Then the statement of R. Dimi in the name of R. Johanan to the effect that there is no unclaimed ground less than four spans will not be in accordance with the opinion of all the sages but merely with that of part of them; for according to the sages of the above Boraitha, even three spans may constitute unclaimed ground? Zera said: "The sages of the Boraitha *do* differ with R. Simeon ben Gamaliel concerning this

* The term in the Mishna which we render with "walls around the city" is "Ebal," and in a translation of the Mishna by De Sola and Raphall, Ebal is called the "town of Ebal." This seems to be inconsistent with the text, however, as further on in the Gemara we find "Me-Ebal le-Sepphoris," and were Ebal a town it is not reasonable that a canal from one city to another should not be ten spans deep and four wide. Aside from this, the Mashbir of Schoenhak and the dictionary of Levy define the term Abuloh (Greek *ἐμβολή*), "walls around a town."

point whether unclaimed ground may be three spans or four, and the statement of R. Dimi is merely in accordance with the opinion of part of the Tanaim."

Why should a canal between two walls containing apertures not be considered as the holes in unclaimed ground; for prior to its entering the space between the two walls it was undoubtedly over four spans wide, and hence unclaimed ground (as holes in public or private ground are considered as part of public or private ground respectively, see Tract Sabbath, p. 11)? Abayi bar Abhin and R. Hanina bar Abhin both declare, that this theory (of holes being equal to the ground) does not exist where unclaimed ground is concerned.

R. Ashi, however, said: Even if the theory does apply to unclaimed ground it applies only then, if the ground is near to the hole (in a wall of the ground), but if it is a distance off as it must be in the case of this canal, the theory can under no circumstances be applied. Rabhina, however, said: The three, respectively four spans discussed in the Boraitha do not apply to the canal, but to partitions which were erected at the entrance and outlet of the canal at each end of the alley, and both parties to the dispute merely adhere to their respective theories concerning Lavud, one side maintaining that three spans constitute "Lavud," and the other that even four spans accomplish this object.

MISHNA: If there be a balcony above the water, it is not lawful to draw water therein on the Sabbath, unless a partition be made ten hands high, either above or below the balcony. Thus, also, if there be two balconies, one above the other: Should a partition have been made for the upper and not for the lower, it is unlawful to draw water through either, unless they have been combined by an Erub.

GEMARA: Our Mishna is not in accordance with the opinion of Hananiah ben Aqabia, who holds, that in a balcony four ells square, a hole may be cut out four spans square, etc., as related previously (page 207), but R. Johanan in the name of R. Jose ben Zimra said: "Hananiah ben Aqabia permitted this to be done only in the case of a balcony erected above the waters of the sea of Tiberias for the reason as stated previously, but not above other waters."

The Rabbis taught: Three things were allowed by R. Hananiah ben Aqabia to the inhabitants of Tiberias, viz.: To draw water through a balcony on Sabbath; to deposit fruit in pea-

stalks (although, while in the field, dew had settled on the fruit, it is not considered as being wet, and hence not subject to defilement); and to wipe themselves with a towel when emerging from the bath (as there is no fear of their wringing the towel).

Rabba bar R. Huna said: "Do not say, that the imaginary hanging partition of the balcony makes it lawful, only to draw water through the balcony but not to pour out water through it, for it is also permitted to pour out superfluous water through that balcony." Said R. Shezbi: "Is this not self-evident? For is this not identical with a sewer mentioned in the next Mishna?" From the succeeding Mishna, where the sewer is supposed to absorb the water, it is allowed to pour water into it even if it be full and run over into the street because the intention was to have the sewer absorb the water, but in this case, where the waters are not stationary, we might assume that it is not allowed to pour out more water to commence with; hence we are told by Rabba bar R. Huna that this may be done.

"*Thus, also, if there be two balconies, one above the other,*" etc. Said R. Huna in the name of Rabh: (The Mishna states, that if a partition had been made for the upper and not for the lower, it is unlawful to draw water through either.) When is this the case? If the balconies were not quite four spans apart, but if they were four spans apart it is allowed to draw water through the upper. This is merely in accordance with the mentioned theory of Rabh, that one man cannot impede (the actions of) another through atmosphere.

Rabba said in the name of R. Hyya and R. Joseph made the statement in the name of R. Oshiya, as follows: The law concerning robbery is applicable also on Sabbath. What is meant thereby? If there was a ruin belonging to a man and another man made use of it during the week, it might be assumed that he had acquired the right to it for the Sabbath and may carry therein (for under ordinary circumstances, if a man robbed another of an article and such article is in his possession it is considered as belonging to him until the victim of the robbery reclaims his right to it by law); but we are given to understand that in this case as soon as the Sabbath sets in the property reverts to its rightful owner (without his recovering same by law).

Said Rabba: "This above statement (that the law of robbery is applicable also on Sabbath) would be contradictory to our Mishna, which says that if there were two balconies one above the

other, and a partition was made for the upper, it is prohibited to draw water through either, etc., and for this reason: During the week the upper balcony undoubtedly makes use of the lower and thereby acquires a temporary right to it. If, then, by using the lower balcony during the week the upper balcony does so wrongfully, and on Sabbath the lower balcony reverts to its rightful owners, to the exclusion of the inmates of the upper balcony, how can the upper balcony prove an impediment to the lower, which it cannot use?"* Said R. Shesheth: "The Mishna refers to a case, where the partition made for the upper balcony was joint property of both upper and lower." If the partition was made jointly, of what benefit would a partition made to the lower be to the upper; as long as a share in the partition of the upper balcony is owned by the lower, the upper cannot be used until both combine an Erub? As soon as the lower balcony erects a partition for itself, it exposes its intention to sever all connection with the upper and thus either balcony may draw water through their respective grounds.

MISHNA: If a court be less than four ells square, it is not permitted to pour water therein on Sabbath, unless a sewer is made, which has a capacity of two saahs exclusive of the walls, either outside or within the court. If the sewer has been made outside it must be covered up (with boards), while on the inside it need not be covered up. R. Eliezer ben Jacob said: "Into a gutter, which is covered up to the extent of four ells in public ground, it is permitted to pour water on the Sabbath"; the sages, however, hold, that even though the court or roof be one hundred ells long, it is not permitted to pour water down the gutter (direct); but the water may be poured out on the roof, so as to drop down into the gutter. (In computing the four ells) mentioned in the first clause of this Mishna, the hall may be added. Thus, also, if there be two habitations facing each other (in one court) and the inmates of one have made a sewer, but were not joined in making it by the inmates of the other habitation, those who made the sewer are permitted to throw water into it, but those that did not make it, are not permitted to do so.

GEMARA: What is the reason that water must not be poured into a court less than four ells square? Said Rabba:

* The explanation of this paragraph of the Gemara is according to the commentary of Rabbeha Hananel, as Rashi reverses the case from the lower balcony to the upper and presents an incomprehensible explanation.

"A man generally consumes two saahs of water every day. If his court be four ells square or more he pours out the water in order to lay the dust; but if it be less than four ells square, he merely would throw out the water in order to have it run out into the street (and that is prohibited as a precaution, lest he should pour out the water into the street direct)."

R. Zera said: "A court of four ells square absorbs two saahs of water, hence, even should part of it run out into the street, it was not the intention of the man who poured it out that it should, but if the court is less than four ells square it does not absorb that quantity of water and part of it must needs run out into the street, hence it is prohibited to pour it out." Wherein lies the difference between Rabba and R. Zera? Said Abayi: "If the court was oblong, say eight ells by two. It absorbs the water undoubtedly, but as for laying the dust in a court of that size a man would not trouble himself to pour out water for that purpose." An objection was made based upon our Mishna, which states in computing the four ells square of the court the hall may be added. Would this not prove that the reason is according to R. Zera? "According to Rabba," explained R. Zera, "the Mishna might refer to a hall which, surrounding the court, made it in the form of a square, *e.g.*, if the court was four ells long by two wide, and the hall added two ells to the width."

"*R. Eliezer ben Jacob said: 'Into a gutter,'*" etc. Our Mishna is not in accordance with the opinion of Hananiah, for we have learned in a Boraitha: "Hananiah said: 'Even if the roof be one hundred ells long, it is not permitted to pour water on it, as it is not made for the purpose of absorbing the water, but for the purpose of throwing it off into the street.'"

It was taught in a Boraitha: "All these regulations concerning the pouring of water apply only to summer but during the rainy period one may pour as much water as he chooses into the court." Why is this so? Said Rabha: "Because it is the intention of the man to have the court absorb the water." Said Abayi to him: "Unclean water is certainly intended to be absorbed by the ground, still it is not permitted to pour it down the gutter." Rejoined Rabha: "Why should this not be permitted during the rainy season? Can it be the intention of the man that the water should run out into the street in order that his court should not become muddy? It is *already* muddy. Then the reason might possibly be in the manner of a precau-

tion, lest the man pour the water into the street direct or others seeing water running out of a court, might assume that it is allowed to pour out such water into the court even during the dry season? The precaution is unnecessary. Those who see water running out of the court will naturally conclude that it is rain-water, because of the rainy season of the year, and there is no fear of the man pouring out the water into the street, because his court being already muddy, he will not mind pouring more water into it." Said Abayi: "According to thy explanation, then, during the rainy season the quantity of water is immaterial, even if it be a kur or two it may be poured out nevertheless."

"*If there be two habitations facing each other,*" etc. It was taught: Rabba said: "They must not pour water into the sewer, provided they did not combine an Erub, but if they did combine an Erub, they may pour water into the sewer." And if they did not combine an Erub, why should it not be allowed? They merely throw the water down the sewer! Said R. Ashi: "This is merely a precautionary measure, lest they fill some vessels with water and then carry them to the sewer."

CHAPTER IX.

REGULATIONS CONCERNING THE COMBINING OF ROOFS ON SABBATH.

MISHNA: All the roofs of a town are considered one private ground (although the houses underneath are occupied by several), provided there be not one roof ten hands higher or ten hands lower than the rest. Such is the dictum of R. Meir; the sages, however, hold, that each roof constitutes a separate private ground. R. Simeon said: Roofs, as well as courts and wood-stores, constitute one private ground, for the carrying of all such utensils as were actually situated there when the Sabbath set in, but not for the carrying of such utensils as were still in the house when the Sabbath set in.

GEMARA: Abayi bar Abhin and R. Hanina bar Abhin were sitting alongside of Abayi, and were conversing between themselves: "It is right according to the sages, who hold, that in the same manner as the houses are separated below, so are also the roofs above; thus, unless an Erub is made between the houses, it is not permitted to carry from one roof to the other; but what is the opinion of R. Meir? Does he hold, that as the houses are separated so are also the roofs, why does he state, that all the roofs constitute *one* private ground; or if he holds that above ten spans there is nothing but private ground, what difference does it make to him, whether a roof be ten spans higher or lower than the rest?" Said Abayi to the two brothers: "Have ye not heard the dictum of R. Itz'hak bar Abhdimi to the effect, that R. Meir said thus: 'Where there are two distinct premises both of which, however, are legally private ground, *e.g.*, a pillar, ten spans high and four spans wide standing in private ground, and which must not be used to shoulder burdens thereon on the Sabbath, lest a heap of the same size standing in public ground be used for the same purpose,' so it is also in this case, where a roof is ten spans lower or higher than the rest the same precautionary measure applies."

The two brothers hearing this from Abayi thought, that according to R. Meir the same case applied to a mortar or kettle,

ten spans high; said Abayi to them: "My master told me, that R. Meir said, this precaution applied only to a pillar and a mill-stone because for these two objects special places are designated, but as for other utensils, even if they be ten spans high, the precaution is unnecessary."

"*The sages, however, hold, that each roof constitutes a separate private ground.*" It was taught: Rabh said: "On every roof things must not be handled except within a limit of four ells," but Samuel said: "They may be handled in the whole extent of the roof." If the roofs are separated and the separation is apparent, all agree, that carrying things on those roofs is permissible (because in this case the walls underneath are considered as if they reached up to the tops of the roofs) but they differ concerning roofs that are separated, where the separation is not apparent. Rabh holds that things must not be carried on those roofs (where the separation is not apparent) except for a distance of four ells, because he does not admit, in this case, the theory of Gud Assik (possibility of the walls reaching up to the tops of the roofs), while Samuel, who does admit the theory, holds, that carrying is permitted in the entire extent of the roofs (because he admits of the possibility of the walls reaching the tops of the roofs).

An objection was made based upon our Mishna: The sages hold, that each roof constitutes a separate private ground. This is in accordance with Samuel's opinion but is contradictory to the opinion of Rabh. The disciples of Rabh said in his name, that the statement, "things must not be handled except within a limit of four ells," meant to signify, "two ells in each adjoining roof" (but in the one roof things may be handled throughout its entire extent).

Abayi said: "If a man erected an attic on top of his house and provided it with a small door four spans wide, he may carry things in all the roofs." (The reason for this statement is, that the fact of the man having made an attic and provided it with a door is proof, that the other inmates had resigned their right to the use of the roof in his favor.) Said Rabha: "It may happen, that the small door with which the attic was provided may prevent the man from using the other roofs" (even according to R. Meir). How so? If the door in the attic faced a garden below and the partition made by the attic separated his roof from the others, it might be said, that he made that door merely so as to be able to watch his garden and renounced his right to the use of the roofs.

(It was taught :) Roofs, level one to the other in which, according to R. Meir, it is permitted to carry things, and a single roof which may be used according to the sages, may according to Rabh be used throughout their whole extent, while according to Samuel, it is only allowed to use them for an extent of four ells. Would not this be a contradiction by Rabh to his previous statement and by Samuel to *his* own former dictum ? This can be explained thus: Rabh's previous statement referred to a case, where the separation between the roofs was not apparent while in this case the separation is apparent and Samuel's former dictum referred to a roof that had less than two saahs' capacity, while in this case it refers to a roof that has a capacity of more than two saah. Why should a roof of that size not be allowed to be used ? The possibility of the walls reaching the tops of the roofs is not admitted, for the reason that partitions which enclose dwellings are made downwards and are not supposed to extend upwards, and of a space which is not enclosed by partitions of dwellings and has a capacity of over two saah, only four ells may be used.

It was taught: Concerning a ship, Rabh said, one may carry things throughout the whole extent of the ship, because the space of a ship is enclosed with partitions, and Samuel said, one may carry only to the extent of four ells. Why so ? Because the partitions were not made for the purpose of making the space inhabitable but merely to keep out the water. Said R. Hyya bar Joseph to Samuel: "According to whose opinion does the Halakha prevail ? According to thy opinion or according to Rabh's," and Samuel answered, "The Halakha prevails according to Rabh."

R. Giddel in the name of R. Hyya bar Joseph said: "Rabh agrees with Samuel's opinion, concerning a ship that was in dry dock and turned over, that it was only permitted to carry things for a distance of four ells." For what purpose was the ship turned over ? If people lived within it, why should it not be allowed to carry things throughout its whole extent ? Is the bottom of the ship not equal to a roof, when the ship was turned over ? Nay; the ship was turned over for a coating of tar.

R. Jehudah said: When we shall arrive at the final conclusions of R. Meir we shall find that all roofs are considered as one private ground in their own right, *i.e.*, that carrying from one roof to the other is permissible; also that all courts are considered as one private ground and likewise all woodsheds, but

from the final conclusions of the sages we shall learn, that roofs and courts constitute one private ground, *i.e.*, that it is permitted to carry things from the roof to the court and *vice versa*, which, according to R. Meir is not allowed. The woodsheds, however, are considered according to the sages a separate private ground, *i.e.*, things may be carried from one woodshed to another but not from a woodshed into a court. The final conclusions of R. Simeon denote, that all roofs, courts, and woodsheds are considered as one private ground.

We have learned one Boraitha in support of Rabh and another in support of R. Jehudah. The one supporting Rabh reads as follows: "All roofs of the town are considered as one private ground; but it is prohibited to carry things from the roofs to the courts, and *vice versa*." Vessels which were situated in the court before the Sabbath set in, may be carried in all the courts, and those situated in the roofs before the Sabbath set in may be handled in all the roofs, provided there is not a roof ten spans higher or lower than the rest. Such is the dictum of R. Meir; but the sages said: Every roof constitutes a separate ground and things must not be carried in it for a distance of over four ells. This bears out the statement of Rabh in which he says that when the separation between the roofs is not apparent one must not carry except in a limit of four ells.

In support of R. Jehudah we have learned the following Boraitha: Rabbi said: "When we learned the Law at R. Simeon's in the city of Thequa, we would carry towels and oil from one roof to another, from that to the court, and from that to another, and from the other court to a woodshed, and from that to another, until we would come to the springs where we would bathe."

Said R. Jehudah: "It happened in a time of danger, that we brought up the sacred scrolls from a court to a roof, from the roof to another court, and from that to a woodshed in order to read therein." The sages answered: "Acts committed during a time of danger do not serve as evidence."

"R. Simeon said: '*Roofs as well as courts and woodsheds*,' " etc. Said Rabh: "The Halakha prevails according to R. Simeon, providing no Erub was made, but if an Erub was effected, it is not so, because there is fear, lest the utensils from the houses be carried out on the Sabbath and are then carried about in all the courts." (R. Simeon himself admits, that they form one private ground for the carrying of such utensils as were actually

within the courts or roofs when the Sabbath set in but nor for such utensils as were within the house.) Samuel, however, as well as R. Johanan, said: "There is no difference whether an Erub was made or not."

R. Hisda opposed this: According to Samuel and R. Johanan there will be two kinds of vessels in the court, one kind, which had already been situated in the court when the Sabbath set in, and the other, which was brought out from the house during Sabbath. Is then not the precautionary measure decreed by Rabh really necessary? Simeon holds to his theory that precautionary measures are not necessary.

Come and hear: "Five courts which opened into each other and also opened into one alley, the inmates of which had all forgotten and not combined an Erub, (the inmates) are prohibited to carry in or carry out from the court into the alley, or from the alley into the court. The utensils which were situated in the courts when the Sabbath set in may be carried in the courts, but the utensils which were situated in the alley must not be carried even in the alley. R. Simeon, however, permits this to be done (even to carry the utensils of the court into the alley) because he used to say: as long as many people lived there and had forgotten to combine an Erub, the roof, the court, the balcony, the gallery, the woodshed, and the alley are all considered the same legal premises." Thus we see that R. Simeon makes this decree only if no Erub was made, but if an Erub was made he would not do so; hence he contradicts Samuel and R. Johanan? Nay; R. Simeon states this merely to supplement the statement of the sages and says to them: "As far as I am concerned it makes no difference whether an Erub was made or not, but according to your opinion, grant me, that when no Erub was made the courts, the roofs, etc. all constitute the same legal premises." The sages, however, answered: "Nay; according to our opinion, each constitutes separate premises."

Said Rabhina to R. Ashi: "Is it possible that R. Johanan said this? Did not R. Johanan say, that the Halakha prevails according to an anonymous Mishna, and we have learned previously (Chapter VII., Mishna 2) concerning a wall between two courts, if there was fruit on the wall, the inmates of both courts may partake of the fruit providing they do not carry any of it down with them? Hence we see that it is not permitted, according to that Mishna, to carry things from one court into another even if an Erub was made by each court!" (R. Ashi answered:)

By carrying it down is meant carrying it down into the houses, but carrying it down into the courts is permitted.

Asked Rabhina again: "Did not R. Hyya teach (in addition to the quoted Mishna), 'providing the inmates of each court do not take it down into their respective courts and eat it'?" Said R. Ashi: "If Rabbi did not teach this in the Mishna, whence does R. Hyya adduce that explanation (I think that my interpretation of the Mishna is correct)?"

It was taught: "If there were two courts, which had a ruin between them and the inmates of one court combined an Erub, while the inmates of the other did not, R. Huna said that the court that had not the Erub is entitled to the ruin (*i.e.*, the vessels situated in their court may be transferred to the ruin) but the court that had combined the Erub is not entitled to the ruin for fear that they might carry out vessels, which were situated in their houses on the Sabbath, into the court, and thence into the ruin."

Hyya, the son of Rabh, however, said: (I heard from my father) that even the court that had an Erub combined may be entitled to the ruin and I explain my father's dictum to signify, that the utensils contained in either court may be transferred to the ruin. If thou shouldst explain my father's dictum to signify, that neither of the courts may make use of the ruin, because he understood R. Simeon's decree to mean "if they had made an Erub they became separate premises," hence, in this case, one of the courts having combined an Erub interferes with others also, I will answer it by saying, that such would be the case if there were an occupied court between them, in which event there might be vessels which were situated in the court when the Sabbath set in and also vessels which had been carried out of the houses, so that it would be impossible to distinguish which could and which could not be carried throughout all the courts. When, however, as is the case here, a ruin is between the two courts where there are no vessels which are actually situated there, the danger of confusion is removed and hence my explanation is, that it is permitted for both courts to transfer their vessels to the ruin.

MISHNA: If a large roof adjoin a small one, the owners of the large roof are permitted to carry things thither from the house, but the owners of the small roof are prohibited to do this. If a large court opens into a small one, through a breach in the wall, the inmates of the large court are permitted to carry things through the breach, but the inmates of the small court

are prohibited to do so, because the smaller court is considered as an entry to the larger.

GEMARA: Why does the Mishna teach both cases, concerning a roof and a court? According to Rabh, the object is to demonstrate that in the same manner as courts are divided by partitions so should the partitions between roofs be apparent. According to Samuel, the object is to show, that a roof is on a par with a court, *i.e.*, as the latter is used by many, so also is the former.

Rabba, R. Zera, and Rabba bar R. Hanan were sitting together and Abayi sate close by. They said: "From this Mishna we may adduce, that the inmates of the larger court control the actions of the smaller, whereas the inmates of the smaller court exert no influence over those of the larger. How so? (For instance:) If vines were planted in the larger, other seed must not be planted in the smaller; but if the vines were planted in the smaller, any other seed may be planted in the larger. If a woman who was to be divorced stood in the smaller court and the bill of divorce was thrown to her from the larger court, she is thereby legally divorced, but if she stood in the larger and the bill was thrown to her from the smaller court, she is not legally divorced. If the congregation assembled for prayer stood in the larger and the reader who was to recite the prayer for them was in the smaller, they have acquitted themselves of their duty; if they were in the smaller court, however, and the reader was in the larger, they have not. If there were nine men in the larger court and one man in the smaller, that one man is counted in with the nine and it constitutes a legal assembly for prayer or for the commission of religious acts, but if there were nine men in the smaller and one in the larger that one man cannot be counted in. If there was a filthy thing in the smaller court (on account of which the Shema prayer could not be recited) the larger court may nevertheless recite the prayer; but if the filthy thing was in the larger court the inmates of the smaller are not allowed to do so."

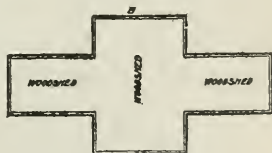
Said Abayi to them: "According to this then, a partition, which under ordinary circumstances should facilitate the observance of laws, would prove a detriment; for were there no partition between the larger and smaller court and vines were planted anywhere within the two courts, a man would simply be obliged to measure off four ells whence the vines grew and could then plant whatever he chose."

Rabha, through R. Shmaiah ben Zera, sent the following query to Abayi: "Do we not find as a matter of fact that a partition at times proves a detriment? Did we not learn in a Boraitha, that concerning the partitions of a vineyard there are instances where they make the observance of laws more lenient and on the other hand there are instances where they make it more rigorous." How so? If the vines are planted hard by the partition, one may on the other side of the partition plant whatever he chooses. If there were no partition, however, he would have to measure off four ells whence the vines grew and then plant whatever he chose. This is an instance of leniency caused by the partition. When does it make the law more rigorous? If the vines were planted to within eleven ells of the partition, it is not allowed to plant other seed anywhere within those eleven ells; but if there were no partition, four ells would suffice between the vineyard and the place where other seed was to be planted. Rejoined Abayi: "Why base thy query upon a Boraitha, if in thy opinion the partition is the main issue? Why not cite the following Mishna? (Kilaim, Chapter IV., Mishna 2:) 'If the space between the vineyard and the fence which surrounds it be less than twelve square ells, no other seed may be sown therein; but if it measure that superficies, a vacant space must be allowed for the cultivation of the vines growing near it, and the rest of the ground may be used for saving (other seed).'" We must say, that because in the Mishna the partition is not the issue, but it is a question of the space between the four ells allowed for the cultivation of the vineyard and the four ells allowed to the hedge or fence, and if such space is four ells wide (*i.e.*, if the whole is twelve) other seed may be sown therein, but if less than four, it is abandoned. Hence we might say, that the same issue is treated of in the Boraitha?

R. Jehudah said: "If there are three woodsheds opening into each other, of which the two outer are enclosed while the



middle one is not (see illustration *A*), and there is a man in each of the woodsheds, the men are



considered as a caravan and are entitled to as much room as they desire. If the middle one, however, was enclosed, but the two outer ones were not (see illustration *B*), and there was a man in each of the three woodsheds, they are entitled to a space of six

saahs' capacity, *i.e.*, two saahs to each man. (For the reason, that in the first instance the middle woodshed is smaller than either of the two outer ones and is virtually absorbed by them, while in the latter case, the middle woodshed is the larger, but cannot absorb the two outer ones, hence the men cannot be considered as a caravan.)"

The schoolmen propounded a question: "How is it if (in the latter instance of the woodsheds, illustration *B*) there were two men in the middle woodshed and one each in the outer sheds? Shall we assume that the two men of the middle shed, having a right to either shed, are considered as being in either one of the two outer sheds, and three persons being in one place, thereby form a caravan, or shall we say, that as there are two men in the middle woodshed, each one of them can occupy either court, in which event there would be two people each in the outer courts and no caravan is formed—consequently they are entitled only to a space of two saahs' capacity for each man? If the latter instance should apply, how would it be if there were two men in each of the outer sheds and one man in the middle shed? Whichever court he might occupy, there would be three men, and thus a caravan would be formed, or, because there is doubt which he would occupy, having a right to either, it would not be considered as a caravan?" The answer was: "All ordinances pertaining to Erubin should be construed in their most lenient form."

Said R. Hisda: "If a court was five spans higher at the edges than in the centre and a partition of five spans height was added to the edges, it does not constitute a valid partition; for either the edges must be ten spans high to commence with or the partition must be made ten spans high." Mareimar, however, maintained, that the two may be counted together and constitute a legal partition.

Rabhina met R. A'ha the son of Rabha and asked him: "Does the master teach anything pertaining to partitions?" and he answered: "Nay." The Halakha prevails, that the edges of the court and the partitions are counted together and constitute a legal partition.

R. Oshiya propounded a question: "How is it if new habitations are added to a court on the Sabbath (*i.e.*, if a wall between two courts had become broken and thus new dwellings were added); do they impede the inmates of that court or not?" Said R. Hisda: Come and hear: (We have learned this in our

Mishna:) "If a large court opens into a small one, through a breach in the wall, the inmates of the large court are permitted to carry things through the breach, but the inmates of the small court are prohibited to do so." Rejoined Rabba: "Perhaps the Mishna refers to a breach that was made before the Sabbath set in." Said Abayi: "The Master should not say 'perhaps'; it is certain, that the breach was caused on the eve of Sabbath; because didst not thou, Master, say thyself at one time, that thou didst ask of R. Huna and of R. Jehudah concerning an Erub which was made through an aperture or a door which had accidentally become closed up on the Sabbath and they told thee, that if that happened after the Sabbath set in, the Erub is valid for the whole Sabbath, having been valid at the beginning (and they certainly would not contradict a Mishna)!"

It was taught: If a wall between two courts was destroyed on the Sabbath, Rabh said, that it is not permitted to carry things in either of the courts for a distance of over four ells, but Samuel maintains, that the inmates of each court may carry as far as the ruins of the wall. The statement herein attributed to Rabh was not made by him outright, but was inferred from the occurrence as follows: Rabh and Samuel were both sitting in one court on Sabbath and suddenly the wall of the court caved in. Said Samuel to the other inmates of the court: "Take a garment and hang it up in place of the wall." Rabh turned away his face from Samuel. Said Samuel: "If Abba (Rabh) is angry let him take his girdle and fasten the garment with it to the wall." If according to Samuel it is allowed to carry as far as the ruins of the wall, why did he order that a garment should be fastened as a partition? Samuel did not order this to be done in order to make a partition but merely to prevent outsiders from peering into the court. And Rabh! if he holds that it is not allowed to carry he should have said so? It was Samuel's domain, and he could not contradict him at that time. Why then did he turn away his face? (Surely he is not responsible for Samuel's actions.) In order to show that he did not agree with Samuel's opinion but still adhered to his own.

MISHNA: If a court (through an incavation of its walls) is laid open to public ground, whosoever brings anything from private ground into such a court, or from the court into private ground, is culpable. Such is the dictum of R. Eliezer. The sages hold, however: Whoever brings anything from the court into public ground, or from public ground into the court, is

absolved; since the court (through the incavation of its walls and consequent opening) has become like unclaimed ground.

GEMARA: Does R. Eliezer hold, that if a court by reason of the incavation of its walls is laid open to public ground, it becomes public ground? Yea! He holds to his theory as expressed elsewhere (Baba Bathra), that if the public had taken a certain path through a meadow (although there was no path) and used it constantly, it remains a path (and the same is the case with this court; if it was laid open into public ground it becomes the same as public ground). This is not so! Did not R. Giddel say in the name of Rabh, that R. Eliezer (in the passage quoted) referred to a case where the original path had been lost and could not be found, and if we would assume that in the case of the court he holds, that only the space which had been lost to the public, *i.e.*, where it is not apparent that the wall had been standing, becomes as public ground, but the whole court is certainly not to be considered such; did not R. Hanina say, that the sages and R. Eliezer differ as to the entire space up to where the wall was standing? Hence we must say, that R. Eliezer holds the entire court to have become as public ground! The statement of R. Hanina should be modified to the effect, that they differ only as to the space that had been occupied by the wall and not up to the wall; thus R. Eliezer does not consider the entire court as public ground. If you wish, I may say, that (the place where the wall stood is still apparent, and) the sages differ with R. Eliezer merely as to the adjoining places to public ground. R. Eliezer holds them to be the same as public ground, while the sages say that, as there had at one time been a court there, it is now not public ground.

MISHNA: In a court (the corner walls of which had fallen in on Sabbath so) that (it) has been laid open to public ground on two sides; also in a house (which by a similar accident) was laid open on two sides; or in an entry the cross and side beam of which had been removed, it is permitted to carry things on that *same* Sabbath; but it is not permitted to do so on the *succeeding* Sabbaths. Such is the dictum of R. Jehudah; but R. Jose said: If it were permitted for that particular Sabbath, it would also be permitted for the future; but since it is prohibited for the future, it is also prohibited on that same Sabbath.

GEMARA: How is the case with the walls treated of in the Mishna? If the breach caused by the incavation does not exceed ten ells, (it is regarded as a door) so what difference does

it make upon how many sides the court has been laid open? If the breach, however, exceeded ten ells, then it would be the same even if one side only were laid open. Said Rabh: The breach does not exceed ten ells but in a corner it is not customary to make a door.

"A house which was laid open on both sides," etc. How would it be if the house were laid open only on one side? We would say, that the edge of the roof is supposed to reach down to the bottom and thus serve as a substitute for the wall by application of the law of "Gud Achith." Cannot the same rule apply to two sides of a house? Let the edge of the roof on both sides be supposed to reach down to the bottom? Said the disciples of Rabh in the name of their master: "The Mishna refers to a house where the corner walls had fallen in and where the roof was not flat but slanting, so that with the walls it also fell."

Samuel said: "In the case of a court the Mishna does refer to an instance where the breach exceeded ten ells, but it also states that the walls had caved in on both sides because further, when treating of a house, it must specify two sides, hence it does so also when courts are in question." Why must two sides be mentioned in the instance of a house? Cannot the edge of the roof be supposed to reach down to the bottom of both walls? Then again does Samuel hold to the supposition, that the edge of the roof reaches to the bottom of the wall? Was it not taught that concerning a gallery in a valley, Rabh said, it is permitted to carry throughout the whole extent of the valley, because the edges of the gallery are supposed to reach down to the ground and thus form a partition for the entire valley, whereas Samuel maintained that this supposition cannot be considered and hence it is only permitted to carry for a distance of four ells? This would not present a difficulty, for in *that* case Samuel maintains, that the edges of the gallery must not be supposed to reach down to the ground because there must be four distinct partitions, but where only three are necessary he would admit the feasibility of such a supposition. The difficulty concerning the two sides of the house where the breach measured over ten ells still remains! In the same manner as the disciples of Rabh referred to a house where the corner walls had fallen in together with their slanting roof, Samuel may refer to a house, the corner walls of which had sustained a breach four ells in width on each corner, or eight ells in all, and five ells in length

on one side, and five ells and a trifle on the other side, or slightly over ten ells in all. Hence it would be necessary to suppose that the edges of the roof reach down on four sides of the breach two in width and two in length and that would be contrary to the theory of Samuel!

Why does Samuel not hold with Rabh? Because the Mishna does not mention a slanting roof and Rabh does not hold with Samuel because he (Rabh, as we have seen in the instance of the gallery in the valley) permits of the supposition, that the edges of a gallery or a roof can reach down on four sides.

"*R. Jose said: If it were permitted for that particular Sabbath,*" etc. The schoolmen propounded a question: "How is R. Jose's dictum to be construed? Does he mean to permit it entirely or to prohibit it entirely?" R. Shesheth as well as R. Johanan said: "He means to prohibit it entirely." We also learned to this effect in a Boraitha, viz.: R. Jose said: As they are not permitted to carry on subsequent Sabbaths, so are they also prohibited to do so on that particular Sabbath.

It was taught: R. Hyya bar Joseph said, the Halakha prevails according to R. Jose, and Samuel said: "The Halakha prevails according to R. Jehudah. Did Samuel indeed say so?" Did not R. Jehudah reply to R. Hana of Bagdad that Samuel decreed: "The Halakha prevails according to R. Jehudah in all cases pertaining to Erubin, but not where partitions are concerned?" Said R. Anan: "Samuel himself explained to me that if the courts were laid open towards unclaimed ground the Halakha prevails according to R. Jehudah but if they were laid open towards public ground the Halakha prevails according to R. Jose."

MISHNA: If an attic be built over two houses, also if bridges are open at both ends, it is lawful to carry things underneath on the Sabbath. Such is the dictum of R. Jehudah; but the sages prohibit it. Moreover, R. Jehudah further said: It is lawful to combine, by means of an Erub, an alley that is open at both ends, but the sages prohibit it.

GEMARA: Said Rabba: Do not say that the reason of R. Jehudah is because a private ground requires according to biblical law only two partitions, but because he holds (Gud Achith) that the ends of the roofs (in this case of the attic or the bridge) are supposed to reach down to the bottom.

CHAPTER X.

SUNDRY REGULATIONS CONCERNING THE SABBATH.

MISHNA: If a man (on Sabbath) find tephilin (on the road), he should match them and bring them (into the nearest town or village) in single pairs (*i.e.*, one for the head and one for the arm). Rabbon Gamaliel said: "He may bring in two pair at a time." To what does this rule apply? To old tephilin (phylacteries), but if they be new, he need not bring them in (at all). If he find them tied up in pairs, or all tied together, he should remain with them till dark and then bring them in. In times of danger (religious persecutions), however, he covers them up and passes on. R. Simeon said: He should hand them to his companion (*i.e.*, the man standing next to him), who in turn hands them to his companion, and so on from hand to hand until the outmost court is reached. So, likewise, his child, he should hand it to his companion, who in turn hands it to his companion and so on from hand to hand, even (if it have passed through the hands of) an hundred (men). R. Jehudah said: "In like manner, a man may pass a cask of wine (which he has found on the road on the Sabbath) to his companion, and he in turn to his companion (and so on from hand to hand) even beyond the legal limits; the sages, however, objected: "The cask cannot be conveyed further than its owners have the right to walk."

GEMARA: He may only carry them in *single* pairs? Shall we assume that this anonymous Mishna is not in accordance with R. Meir, who decrees (Tract Sabbath, page 257) that a man may clothe himself in as many garments as he chooses? Said Rabba: In both instances the decree of R. Meir is based upon the custom of the week-days (when a man may also put on as many clothes as he chooses), and as the above-mentioned Mishna treats of "saving from fire" the Rabbis permit a man to wear as much clothing as he chooses. In this instance, however, where there is no danger, (and as a man only wears one pair of tephilin on a week-day, hence he may wear only one pair

on a Sabbath). Thus this Mishna can also be in accordance with the decree of R. Meir.

"Rabbon Gamaliel said: He may bring in two pair." What is the reason of R. Gamaliel's dictum? Does he hold, that on Sabbath also tephilin should be worn? Then he should only have permitted one pair to be brought in? If, however, he holds that on Sabbath tephilin should not be worn and it is merely to save the tephilin that it was permitted for a man to wear them on his head and arm, why does he only permit two pair at a time; he could have permitted more? Said R. Samuel bar R. Itz'hak: "On the head there is only room for two." On the hand, however, there is room for but one? As there is room for two on the head, according to R. Samuel, there is room for two also on the arm.

Shall we say that the first Tana of the Mishna differs with Rabbon Gamaliel upon the point advanced by R. Samuel bar R. Itz'hak maintaining that there is only room for one on the head or arm while R. Gamaliel holds there is room for two? Nay; all agree that there is room for two, but they differ as to the legality of wearing tephilin on the Sabbath. The first Tana holds that they should be worn on Sabbath, while Rabbon Gamaliel holds that they must not.

Who of the Tanaim ever held, that on Sabbath tephilin must be worn (in order that it might be said the first Tana of the Mishna is in accordance with his opinion)? That was R. Aqiba; as we have learned: It is written [Exod. xiii. 10]: "And thou shalt keep this ordinance in its season from year to year." And elsewhere [Tract Menachoth] where there is a dispute between R. Jose the Galilean and R. Aqiba, it concludes with the statement that R. Aqiba holds the wearing of tephilin on Sabbath to be legal. Does R. Aqiba indeed hold that Sabbath is (also) a proper time for the wearing of tephilin? Have we not learned in another Boraitha as follows: R. Aqiba said: "Lest we should assume that it is required to wear tephilin on Sabbath or on festivals, it is written [ibid. 9]: 'And it shall be unto thee for a *sign* upon thy hand,' which means, that tephilin should be worn, when a sign is required, but Sabbath and festivals being signs in themselves, it is not necessary to have another." Therefore we must say, that the first Tana of our Mishna does not hold according to R. Aqiba but in accordance with the Tana of the following Boraitha: "He who stays awake at night may either wear tephilin or not, so said R. Nathan; Jonathan Qitoni,

however, said: 'It is not allowed to wear tephilin at night.''' If R. Nathan, then, holds that tephilin may be worn at night, he also holds, that they may be worn on Sabbath. This is no evidence! It may be that he holds that they *may* be worn at night, but not on Sabbath; for have we not learned that R. Aqiba held the night to be a proper time for wearing tephilin, but not so the Sabbath?

We must say, therefore, that the first Tana of our Mishna is in accord with the opinion of the Tana of the following Boraitha: "Michal the daughter of Qushai used to wear tephilin, and the sages did not object to it; the wife of Jonah would go to Jerusalem for the festivals and the sages did not object to that" [whence we see that the duty of wearing tephilin is a (positive) commandment which is not dependent upon the time, *i.e.*, if it said, that they must not be worn at night or on Sabbath, the law would be dependent upon the time, and that duty which is dependent upon time need not be performed by women. If such were the case then the sages would have prevented Michal from wearing tephilin because of the commandment: "Thou shalt not add to the law"]. Hence we see that tephilin may be worn on Sabbath, according to the sages.

It may be, however, that the sages hold to the opinion of R. Jose, who said, that while the laying of hands upon sacrificial offerings is only obligatory for men, still, women, when bringing their offerings, may, if they choose, perform that duty, and the proof that the sages hold thus is that when the wife of Jonah would go to Jerusalem for the festivals, a duty which no one disputes is entirely dependent upon the time, the sages had no objection. Therefore we must say that the first Tana of our Mishna is in accord with the opinion of another Tana, *viz.*: the Tana of the following Tosephta: "One who finds tephilin on the Sabbath should bring them in single pairs, whether the finder be a man or a woman, whether the tephilin be old or new. Such is the dictum of R. Meir. R. Jehudah, however, prohibits new tephilin to be brought in but permits old." Now we see that they differ only as regards new and old tephilin, but not as to whether a man or woman may bring them in, whence we see that the duty of tephilin is not dependent upon the time. Then the question again arises, "does not this Tana hold in accordance with the opinion of R. Jose?" This would not be consistent; for neither R. Meir nor R. Jehudah are in accord with R. Jose. R. Meir is not in accordance with R. Jose as we have

learned in a Mishna (Tract Rosh Hashana): "One must not prevent children from blowing the cornet." From this we see that only children are not to be prevented, but women are, and as the above Mishna is anonymous and it is traditional that all anonymous Mishnaoth are in accordance with R. Meir, we see that he (R. Meir) is not in accordance with R. Jose, and that R. Jehudah is not in accordance with R. Jose is to be seen in the following Boraitha in Siphra: It is written [Levit. i. 4]: "And he shall lay his hand upon the head of the burnt-offering," this is a law which applies to a man but not to a woman. For the reason that this dictum is by anonymous teachers we, in accordance with what we have learned elsewhere, ascribe it to R. Jehudah.

R. Elazar said: If a man found whole strands of wool dyed purple-blue, the same as is used for show-threads (*vide* Numbers xv. 38) in the market and it is not known whether they were intended for the preparation of show-threads, they are not suitable for such purpose, but if he found *threads* of that kind of wool they are suitable for that purpose. Why should the strands not be suitable, because it is possible that they were intended for other purposes, *e.g.*, for garments? Why not assume the same to be the case with threads? The threads are referred to as being already twisted into the form required for show-threads. Even so, it might be that they were intended for fringes on a garment? Nay; the threads mentioned were already cut to a size suitable for show-threads and a man would not go to the trouble of preparing them so carefully if they were to be used for any other purpose.

Said Rabha: And what about tephilin? The Mishna distinctly states, that only old tephilin may be brought in, because of the certainty that they are actually tephilin, but as for new ones, even though they be made exactly like tephilin, they must not be brought in for fear that they be only ordinary amulets. Hence we see that they apprehended lest a man take the trouble to prepare amulets exactly like tephilin (why should he not do so with the blue thread for show-threads)? Said R. Zera to his son Ahabha: "Go and tell them, that I have found another Boraitha which explicitly teaches that if the threads were found cut off to the required size of the show-threads, they are suitable for that purpose, for a man will not go to the trouble of cutting off the threads for any other purpose." Rejoined Rabha: "And if Ahabha taught that Boraitha, did he then encircle it with jewels? Our Mishna states explicitly, that only old teph-

ilin, but not new, may be brought, which is proof that there is fear, lest a man go to the trouble of making amulets exactly like tephilin." "Therefore," he continued, "whether a man would take the trouble (to cut off the threads) or not is merely a difference of opinion between Tanaim as we have already learned in the Boraitha above: 'R. Meir permitted the bringing in of both new and old tephilin, while R. Jehudah permitted only old tephilin to be brought,' for the latter held that a man would take the trouble to make amulets exactly like tephilin while the former held that he would not."

Now, if the father or Samuel and the son of R. Itz'hak explained the terms in the Mishna "old tephilin" to signify that the straps of the tephilin had already been attached and the legal knot made therein, and "new tephilin" to signify that the straps had already been attached but the legal knot had not yet been made, the question whether a man would take the trouble to imitate the genuine tephilin falls to the ground, and the issue is merely: One holds, that if the tephilin were already fit to be worn they may be brought in, while the other holds, that even if they were not quite prepared they may also be brought in.

R. Hisda said in the name of Rabh: "If one buys tephilin of a man who is not an expert, he must examine two tephilin used for the arm and one used for the head or two of the head and one of the arm (and if he finds them suitable, he may purchase more)." Now, then, let us see! If he purchases the tephilin of one man, what reason is there in examining two used for the arm and one used for the head; why not examine three for the arm or three for the head? And if he purchases the tephilin of several men, he should examine three of each man!

R. Hisda refers to a man who buys tephilin from *one* expert, but he must examine the tephilin for both head and arm in order to see that both kinds are properly inscribed and it matters not whether he examine two for the head and one for the arm or one for the head and two for the arm.

Did R. Kahana, however, not teach, that he should examine only one each for the head and arm? This is in accordance with the opinion of Rabbi, who holds, that in order to firmly establish (the fact) that the man is an expert or where any other proof must be brought, two only are necessary. If this is according to Rabbi, how shall we explain the final clause of the Boraitha stating, that so shall the second bunch of tephilin

be examined and likewise the third? According to Rabbi why is a third required? When bunches of tephilin are concerned, Rabbi also admits that they should all be examined, because the expert probably receives the bunches from different makers and for that reason two of each bunch, one for the head and one for the arm, should be examined. Then why only three? Four or five should be examined? Such is really the case, any amount should be examined but three only are mentioned as a rule, that in this instance the theory of *Hazakah** does not apply.

"*He should remain with them till dark and then bring them in.*" Why not bring them in in single pairs? Said R. Itz'hak the son of R. Jehudah: "My father explained the Mishna thus: If the man can bring them all in, pair by pair, before darkness sets in, he may do so, but if he cannot, *i.e.*, if some would still remain, by the time it gets dark, he should rather remain with them until it *becomes* dark and then bring them all in at once."

"*In times of danger, however, he covers them up,*" etc. Have we not learned that in times of danger he should carry them less than four ells at a time? Said Rabh: "This presents no difficulty. Our Mishna treats of times of danger arising from religious persecutions by the Gentiles while in the Boraitha the danger is supposed to be that arising from robbers." Said Abayi† to him: "Thou sayest that our Mishna treats of danger arising from religious persecutions, how then will the latter clause of the Mishna correspond with this? R. Simeon said: 'He should hand them to his companion,' etc. Would this not involve still greater danger?" Answered Rabh: "The Mishna is not complete and should read thus: 'In times of danger, however, he covers them up and passes on.' When is this the case? When the danger arises from religious persecutions, but if it be dangerous on account of robbers he should carry them for a distance of four ells at a time." R. Simeon, however, said: "(In the latter case), he should hand them to his companion," etc.

Upon what point do R. Simeon and the first Tana differ? The first Tana holds that the method adopted by R. Simeon would be too ostentatious and would seem like a violation of the

* The explanation of the *Hazakah* will be found in section Jurisprudence.

† This Abayi is presumably Abayi the elder, as the Abayi generally quoted lived at a later period than Rabh and could not have seen him.

Sabbath, whereas carrying for a distance of less than four ells is by no means objectionable. R. Simeon, however, holds, that when a man is obliged to carry things for a distance of less than four ells at a time, he might forget and carry for a distance of four ells or more, whereas handing the things from one man to another is perfectly safe.

"*So, likewise, his child,*" etc. How came his child on the field or on the road? The disciples of Menasseh taught: "This refers to a child that was born on the road (or in the field)." What does R. Simeon mean to say by "even if it pass through (the hand of) an hundred?" He means to tell us, that although passing it through many hands is not good for the child, still it is preferable to carrying it for less than four ells at a time.

"*R. Jehudah said: In like manner a man may pass a cask,*" etc. Does not R. Jehudah hold in accordance with the Mishna elsewhere [Tract Beitza] that an animal may be led or vessels may be carried only as far as the owner thereof is entitled to walk? Said Rabha: R. Jehudah in the Mishna refers to a cask which had acquired the right to its Sabbath-rest at the place where it was situated, but the contents of which had not acquired such right, and the cask becomes of no consequence to the contents.

R. Joseph objected: We have learned in a Boraitha: R. Jehudah said: "When a caravan was encamped a man may hand a cask to his companion, he in turn to his companion, and so on." Thus we see, that this is said only of a caravan but not under ordinary circumstances? Hence R. Joseph explained, that the dictum of R. Jehudah in the Mishna also applies to a *caravan* only.

MISHNA: If a man reads in a scroll (of sacred scriptures) on the threshold of the house, and the scroll slips out of his hand, he may draw it back again. If a man reads in a scroll of the scriptures on the roof of his house and the scroll slips out of his hand, he may, if it has not rolled down for a distance of ten spans (from public ground), draw it up again;* but if it reached down to a distance of ten spans (from public ground) he should turn the written side over (downwards to the wall), and leave it there till nightfall. R. Jehudah said: "If the scroll be but the breadth of a needle from the ground, the man may roll

* It must be borne in mind that the scrolls were rolled on two separate rollers, and were unwound from one and wound on the other as the reading progressed.

it back again to himself." R. Simeon said: Even though it be completely on the ground, the man may roll it back to himself, for no ordinance regarding the Sabbath-rest supersedes the veneration due to sacred scriptures.

GEMARA: What was the threshold? Shall we say that the threshold was private ground and the space before it public ground, and no precautionary measure is ordained which would forestall his picking up the entire scroll if it fell into that public ground? Hence we must assume, that this is in accordance with the opinion of R. Simeon, who holds that no ordinance regarding the Sabbath-rest supersedes the veneration due to sacred scriptures. If, then, the first clause of the Mishna is according to R. Simeon, then comes the dictum of R. Jehudah, then again the dictum of R. Simeon, it is obvious, that the first and last clauses of the Mishna are in accordance with the opinion of R. Simeon, while the intervening clauses are R. Jehudah's? Said R. Jehudah: "Yea, so it is." Abayi, however, said: "The threshold referred to, was not private ground but unclaimed ground, and the space before it was public ground. If the scroll had rolled out into that public ground entirely but for a distance of four ells only, the man would not be culpable even if he picked it up and brought it back to the threshold, hence in this case it was allowed him to bring it back to commence with; but if it fell for a distance of more than four ells, he would, should he bring it back, be culpable, because he would have carried more than four ells in public ground; hence it was not allowed under those circumstances to bring it back in the first place."

"*If a man reads, etc., on the roof.*" The Mishna teaches, that he should turn the written side of the scriptures over! Is this then allowed? Have we not learned in a Boraitha, that the scribes who write scriptures, tephilin, or Mezuzoth were not permitted to turn over the vellum in order to prevent it from becoming dirty, but must cover it up with a cloth? Where this can be done it *should* be done, but where it is impossible, rather than desecrate the sacred scriptures, they should be turned over.

If it fell from the roof and remained hanging alongside of the wall, it did not rest in any place because the wall is perpendicular, and it is necessary that it should actually rest on some object? The Mishna is in accordance with the opinion of R. Jehudah and is not complete but should read thus: He should turn the written side over. When is this to be done? If the wall was a slanting wall; but if it was straight, he may draw it back even if it be

less than three spans from the ground, because R. Jehudah said: "If the scroll be but the breadth of a needle from the ground, the man may roll it back again to himself." Why so? Because it is necessary, that it should rest on some object.

MISHNA: On a ledge outside a window it is permitted to place vessels and to remove them therefrom on the Sabbath.

GEMARA: Where does the ledge project? Shall we assume, that it projects into public ground? Then there is fear, lest they fall to the ground and the man might bring them back into the house. Or shall we say that it projects into public ground, then it is self-evident, that it is permitted. Said Abayi: The ledge is supposed to project into public ground, but the vessels which may be placed are brittle, and hence, should they fall, they will be broken and there is no fear that they will be brought back into the house.

We have also learned to this effect in a Boraitha: On a ledge outside a window, which projects into public ground, may be placed bowls, goblets, jugs, and glasses, and the whole wall down to within ten spans from the ground may be used, and if there be another ledge underneath (but over ten spans from the ground) the wall underneath the lower ledge may be used entirely, but the upper ledge must only be used to the extent that it faces the window.

MISHNA: A man may stand in private ground and move things that are in public ground; or he may stand in public ground and move things that are in private ground, provided, that he does not move them beyond four ells. A man must not, standing in private ground, make water in public ground on (Sabbath), nor may he standing in public ground make water in private ground. In like manner he must not, standing in one (kind of) ground spit into another. R. Jehudah said: He who (when coughing) has brought up phlegm into his mouth, must not go four ells before expectorating.

GEMARA: Said R. Joseph: If he did so (meaning if he expectorated, etc.) he is culpable and liable for a sin-offering. But is it not necessary in the first place, that there be a transfer from a certain fixed place and that the article transferred rest in another fixed place of four ells square? Yea, the intention of the man, however, brings about that condition. For if this were not so, how could Rabha have said elsewhere, that if a man threw a thing and it fell into the mouth of a dog or into a furnace, he is culpable? Is it not necessary that it rest in a space

of four ells? Therefore we must say, that the intention of the man is equal to the deed and such is also the case in this instance.

"*R. Jehudah said: He who has brought up phlegm,*" etc. Said Resh Lakish: If a man expectorated in the presence of his master, he deserves to be killed, for it is written [Proverbs viii. 36]: "All those that hate me, love death." Do not read "All those that hate me" but "All those who make me hateful" (see Sabbath, page 236).

MISHNA: A man must not, standing in private ground drink in public ground, nor may he, standing in public ground, drink in private ground, unless he places his head and the greater part of his body, within the place in which he drinks. Such is also the law regarding a wine-press.

GEMARA: Is the first part of the Mishna preceding our Mishna in accordance with the opinion of the sages, and our Mishna in accordance with R. Meir? Said R. Joseph: The preceding Mishna refers to objects which are not of absolute importance while this Mishna refers to objects which are a necessity to the man; hence the precautionary measure forestalling the probability of the man's carrying them into the other ground is instituted.

The schoolmen propounded a question: "What is the law regarding unclaimed ground, *i.e.*, if the man stood in private or public ground and drinks out of unclaimed ground and *vice versa*?" Said Abayi: "The same law applies to unclaimed ground." Rejoined Rabha: This ordinance is merely a precautionary measure! Shall we then institute one precautionary measure as a safeguard to another?" Answered Abayi: "I deduce this from the further teaching of the Mishna stating, 'Such is also the law regarding a wine-press'; for the wine-press must needs be considered unclaimed ground, as in the event of its being private ground, why should the repetition be made?" and Rabha replied: "The law regarding a wine-press is not for the sake of the observance of the Sabbath; but it means to imply, that a man may drink the wine made at the press without waiting for the tithes to be acquitted thereof." Thus also said R. Shesheth, as we have learned in a Mishna: A man may drink from a wine-press, whether he mix the must with warm or cold water, and need not first acquit the tithes thereof. Such is the dictum of R. Meir; but R. Elazar ben Zadok prohibits this, if the man mixes the must with water,

because by that act he turns it into a beverage. The sages, however, hold that if he mix it with warm water he turns it into a beverage and is culpable, but if he mix it with cold water he is not culpable as it is not considered a beverage, for he can, after quenching his thirst, pour it back into the press.

MISHNA: A man may catch water dropping from a spout on the roof, within ten hands from the ground; but from a projecting spout he may drink in any manner (he chooses).

GEMARA: He may catch it with his hands but with the mouth it is not allowed! Why so? Said R. Na'hman: This is the case if the spout was less than three spans from the roof, in which it is considered as the roof itself, and consequently it is private ground. If he should catch the water with his mouth it is like carrying things from private into public ground.

We have also learned to this effect in a Boraitha: A man may stand in private ground, raise his hand upwards of ten spans to the spout which is less than three spans from the roof and drink the water out of his hand; but he must not place a cask or his mouth underneath the spout.

"But from a projecting spout, he may drink in any manner." We have learned in a Boraitha, that if such spout was four spans square he must not do this; for it is regarded as carrying from one (kind of) ground into another.

MISHNA: Should a well standing in public ground have an enclosure ten spans high, it is lawful to draw water therefrom (on the Sabbath) through an aperture (window) that is above it. On a dunghill, ten spans high, standing in public ground, it is lawful to pour water through any aperture above it.

GEMARA: Where is the well supposed to be situated? Is it near the wall, why are ten-span-high enclosures necessary? Said R. Huna: "A well is referred to that is more than four spans distant from the wall, in which case a ten-span-high enclosure is necessary, otherwise the water would be carried from private into private ground by way of public ground." R. Johanan, however, said: The well might have been even near the wall, but the Mishna intends to teach us, that the well with its enclosures together are accounted to be ten spans (and hence a partition which legalizes the private ground).

"On a dunghill, ten spans high," etc. Is there no apprehension that the dunghill will be decreased (by removing part of it, in which case it will be less than ten spans and still they will continue to pour water on it)? Did not Rabbin bar R. Ada

say in the name of R. Itz'hak: "It happened that concerning an entry which opened into the sea and into a dunghill Rabbi would neither declare the entry lawful nor unlawful. He would not declare it lawful, because it might occur, that the sea should recede and leave the land dry and also that the dunghill might be removed; yet he would not declare it unlawful because the sea and the dunghill were still partitions for the time being"? This presents no difficulty. In the case quoted by Rabbin the dunghill was the property of an individual and he could have removed it, but in the case treated of in the Mishna the dunghill is public property and there is no fear of its being removed. Mareimar erected partitions for all the entries in Sura facing the sea out of fish-nets, saying: There is danger lest the sea recede and leave the land in front of the entries dry.*

MISHNA: Beneath a tree, the branches of which droop and cover the ground so that the tips of its twigs be within three spans from the ground, it is lawful to carry things (on the Sabbath). Should the roots of the tree project three spans high out of the ground it is not permitted to sit upon them.

GEMARA: R. Huna the son of R. Jehoshua said: "If the space occupied by the tree is of more than two saahs' capacity, it is not permitted to carry things therein." Why so? Because an abode beneath a tree is not considered an actual abode but is merely used by such as wish to avail themselves of the fresh air, and wherever such is the case it is not permitted to carry within a space of more than two saahs' capacity.

"*Should its roots project three spans,*" etc. It was taught: "If the roots of a tree projected more than three spans and sloped to a lesser height, Rabba permits their being used because the ends of the roots are less than three spans from the ground and hence equal to the ground itself, whereas R. Shesheth prohibits their use because he claims, that the beginning of the roots being over three spans from the ground cannot be used and the ends being part and parcel of the beginning are still subject to the same prohibition."

If the roots, however, grew in the shape of a rolling sea, those protruding highest are according to the opinion of all prohibited to be used. Those growing lowest are in everybody's opinion allowed to be used; but concerning the roots that grew

* This passage is transferred to this place from page 8a in the original, as it is more pertinent to this discussion.

between the two there is a difference of opinion between Rabba and R. Shesheth. The same note applies to a tree growing out of a water-ditch and to a tree growing in a corner between the two walls of a court.

The Rabbis taught: Roots of a tree projecting out of the ground three spans or between which there was a space of three spans must not be used, though one side of them be level with the ground, because it is not allowed to climb, hang on to, or lean upon a tree (on Sabbath). One must not climb a tree on the eve of Sabbath and remain there during the entire Sabbath. The same rule applies to animals, *i.e.*, one must not climb upon the back of an animal on the eve of Sabbath and remain there the following day. One may, however, ascend to (respectively) descend into a pit, well, cavern, or fence by scaling or holding to the walls thereof even though they be an hundred ells long. (The reason for the prohibition regarding a tree is because there is fear, lest a man might tear off a twig on Sabbath, while in the case of a pit, well, etc., there is no possibility of such a thing.)

We have learned in one Boraitha, that if a man climbed up a tree (inadvertently) on Sabbath he must not descend, while in another, we have learned, that he may! This presents no difficulty. One Boraitha holds, that it should not be allowed to descend for the sake of a precaution, lest the climbing had been done with intention, while the other Boraitha maintains, that as long as it had been done unintentionally the man is permitted to descend.

In one Boraitha we were taught, that be the tree green or dried, it is not permitted to be used, while in another it is said, that only if it is green it is prohibited, if it be dry, however, it may be used. This presents no difficulty. The Boraitha that permits the tree to be used refers to one which during the summer had lost all its fruit and leaves, while it prohibits a tree to be used in the rainy season when it is full of fruit and leaves.

Rami bar Abba said in the name of R. Assi: A man must not walk on the grass on the Sabbath, for it is written [Proverbs xix. 2]: "He that hasteneth with his feet is a sinner."

One Boraitha teaches, that a man is not allowed to walk on grass on the Sabbath and another teaches that he may! This presents no difficulty. One Boraitha refers to wet grass which is easily torn, while the other refers to dry grass. At this time, however, when we hold in accordance with the opinion of Sim-

eon, that an act which one has no intention of performing does not make one culpable, it is permitted to walk on any kind of grass.

MISHNA: The shutters of a bleaching ground or thorn bushes (as are used) to fill up breaches in a wall or reed mats must not be used to close up avenues unless they be placed a trifle above the ground.

GEMARA: The following presents a contradiction to the Mishna: We have learned: Portable shutters, reed mats, and plough-handles, if already hanging in their places, may be used to close up (avenues) on Sabbath and so much more on festivals? Said Abayi: "Providing they have hinges," and Rabha said: "Even if they have no hinges at the time but at one time did have, they may be used."

An objection was made: "We have learned: Portable shutters, reed-mats, and plough-handles if already hanging in their places and but one hair's breadth removed from the ground, may be used to close up avenues?" Abayi explains this, in accordance with his former dictum, as follows: "Providing they either have hinges or are removed from the ground even one hair's breadth," while Rabha explains this, according to *his* former statement, namely: "Providing they at one time had hinges or were one hair's breadth distant from the ground."

The Rabbis taught: Thorn bushes, or bundles of thorns, which were prepared for filling up a breach in a wall, may, if they were tied together and already hung up, be used to close up avenues on the Sabbath and so much more on a festival.

R. Hyya taught: "A movable widow-door may not be used to close up avenues on the Sabbath." What is meant by a widow-door? Some say if it had only one board (which appears to be as a part of the wall) while others say that it may be even a two-board door but had no joints.

R. Jehudah said: Bonfires may be made on a festival provided they are ignited from the top, but they must not be ignited from the bottom, (because the flames would envelop the fuel and make it appear like a tent of fire). The same rule applies to eggs, pots, folding-beds used in the field, and casks (*i.e.*, they must not be piled up in the form of tents and in the case of eggs they must not be cooked over a fire which has the appearance of a tent).

A Sadducee said to R. Jehoshua ben Hananiah: "Ye (all Israelites) are compared to thorns, because it is written concern-

ing you [Micalah vii. 4]: 'The best of them is like a brier.'"
 Replied R. Jehoshua: "Look further into the verse, thou fool, where it is written [ibid.]: 'The most upright is sharper than a thorn hedge,' which signifies, that as a thorn-hedge is used to fill up a breach in a wall, so do the upright among us shield us from all evil."

MISHNA: A man must not, standing in private ground, unlock with a key something in public ground, nor may he, standing in the public ground, unlock with a key something in private ground, unless he had previously made a partition ten hands high (round the spot on which he stands). Such is the dictum of R. Meir; but the sages said to him: "It was the custom in the poultry-dealers' * market, at Jerusalem, to lock up the shops, and place the key in the window (aperture) above the door." R. Jose said: "This was done in the wool-market."

GEMARA: The sages object to the dictum of R. Meir, who speaks of public ground, by citing an instance in Jerusalem which is unclaimed ground. Did not Rabba bar bar Hana say in the name of R. Johanan that Jerusalem, if the gates were not closed at night, would be considered public ground as far as Sabbath is concerned?

Said R. Papa: Our Mishna treats of Jerusalem after its fortifications had been razed to the ground when it became public ground, but Rabha said: The sages did not object to the dictum of R. Meir as quoted in the Mishna, but to another statement of his referring to gates of gardens, and the Mishna should read thus: "Nor may he, standing in private ground, open with a key something in unclaimed ground, or *vice versa*, unless he had made a partition ten spans high." Such is the dictum of R. Meir; but the sages objected: "It was the custom in the poultry-dealers' market, etc., etc."

The Rabbis taught: The doors of the gates of gardens if leading into a porter's lodge on the inside may be locked from the inside. If the porter's lodge was outside of the door, the doors may be locked on the outside, and if there were lodges on both sides of the doors they may be locked on either side, but if there were no lodges at all, the doors must not be locked at all, because they are situated in private ground and the key must

* The Hebrew term which we render "poultry-dealers" is Patmim. Rashi translates it "butchers." The Aruch and the Alphasi, however, interpret the term "poultry-dealers." In Tract Beitza, 296, Rashi explains the word Patam "one who feeds poultry."

necessarily be brought from public ground. The same rule applies to shops that opened into public ground. If the lock of the door was less than ten spans from the ground, the key should be brought on the eve of Sabbath and deposited on top of the door, and on Sabbath he may take it down, lock the door, and put the key back in its place. If there was an aperture above the door, he can place the key in that aperture providing the aperture was not four spans square, for if it be four spans square it constitutes a separate ground in itself, and the man would carry from one (kind of) ground into another.

MISHNA: A loose bolt with a knob to it, is prohibited to use on Sabbath. Such is the dictum of R. Eliezer; but R. Jose permits its use. R. Eliezer said: In the synagogue of Tiberias it was customary to use such a bolt, until Rabbon Gamaliel and the elders came and prohibited it. But R. Jose replied: On the contrary, they refrained from using it as unlawful, until Rabbon Gamaliel and the elders came and permitted it.

GEMARA: If the bolt was fastened to a cord (rope) and when holding the cord the bolt was also held, all agree, that it may be used, but they differ as to a bolt that was not fastened to a cord. One master holds that if it had a knob on top it is regarded as a vessel and may be used, while the other master said: "As it cannot be held with the cord it cannot be considered a vessel and must not be used."

MISHNA: A loose bolt, that is fastened to a rope (and hangs down towards the ground) may be used to fasten with in the Temple only, but not in the country; but a bolt that is fixed to the building itself must not be used in either place. R. Jehudah said: A fixed bolt may be used in the Temple and a loose bolt in the country.

GEMARA: The Rabbis taught: What is called a loose bolt, which may be used to fasten with in the Temple and not in the country? If it be fastened to a rope, hangs down, and one end reaches the ground. R. Jehudah, however, says, that a bolt of that kind may even be used in the country, but a bolt which must not be used except in the Temple, is one that is not fastened to a rope and hangs down, but which is fixed to the building itself and when taken out is placed in a corner.

R. Jehudah in the name of Samuel said: "The Halakha prevails according to R. Jehudah concerning a loose bolt in the country but as for a fixed bolt which is not the outcome of a rabbinical law but against an actual biblical law, namely: that

prohibiting building, it is not allowed to be used even in the Temple." Said Rabha: "A loose bolt is prohibited even in the country unless it be fastened by a rope to the door." This is not so! Do we not know, that it happened when R. Tabhla came to Mchuzza and saw a bolt fastened by a rope but not attached to the door, he did not object to its use? In that case it was a rope that was amply firm to hold the bolt without being attached to the door.

R. Ivia came to Neherdai and saw a man fastening a bolt with papyrus, whereupon he said, that a bolt fastened in that manner must not be used.

R. Nahumi bar Zachariah asked Abayi: "How is it if a man made a handle to the bolt?" and he answered: "Thou askest then concerning a pestle and it was taught in the name of R. Nahumi bar Ada that if he made a handle to a bolt and it looked like a pestle, it may be used."

Rami bar Ezekiel sent a request to R. Amram: "Let master tell us some of the good sayings, which he at one time related in the name of R. Assi concerning the canopies of boats." And R. Amram replied: "R. Assi said thus: If the poles upon which the canopies were put up be one span thick, or if they be less than one span thick, but are less than three spans apart, one may, on the Sabbath, bring a mat and form a tent out of such poles, because they were already at one time tents, and for the time being were also temporary tents, and it is permitted to add to a temporary tent in order to make it useful."

R. Huna had some rams which at night required fresh air and in daytime required a shady place, so he came to Rabh and asked him what to do on the Sabbath. Rabh answered: On the eve of Sabbath, when thou removest the covering of the stalls which the rams occupied during the day, do not quite remove all the covering, but leave about a span closed. Thus on Sabbath thou wilt have a temporary tent, and thou mayest then cover up the stalls entirely; for it is permitted to add to a temporary tent on the Sabbath.

Rabh in the name of R. Hyya said: One may unfold and fold up a curtain on the Sabbath.

R. Shesha the son of R. Idi said: "It is permitted to wear a black, broad-brimmed hat on Sabbath." Did we not learn in a Boraitha that it is not permitted to wear such a hat on Sabbath? This presents no difficulty. The Boraitha refers to a hat, the brim of which was one span in width. If that be the

case, then it would not be allowed to let down *any* garment more than a span? Therefore we must say, that the Boraitha prohibits the wearing of such a hat only if it is not tied to the head and not because of its similarity to a tent, but for fear that the wind might blow it off and one would be forced to carry it more than four ells in public ground, while R. Shesheth refers to a hat that is tied to the head and there is no fear of its being blown off.

MISHNA: In the Temple the lower hinge of a cupboard-door may be refitted into its place (on the Sabbath), but this must not be done in the country. The upper hinge must not be refitted either in the Temple or in the country. R. Jehudah said: The upper hinge may be refitted in the Temple and the lower one in the country.

GEMARA: The Rabbis taught: The lower hinges of a door of a cupboard or a chest or a tower may be refitted into their places in the Temple, but in the country they may only be temporarily replaced, but not refitted. If the upper hinges had become unfastened it is not allowed to even temporarily replace them as a precaution lest they be refitted with tools, for should this be done the act involves liability to bring a sin-offering. The doors of cellars, vaults, or gables must not be refitted, and if this was done, the man is liable for a sin-offering.

MISHNA: They (priests who minister) may replace a plaster on a wound (which plaster had been taken off to perform the service) in the Temple; but this must not be done in the country. To put the first plaster on a wound on Sabbath is prohibited in either place.

GEMARA: The Rabbis taught: "If a plaster became removed from a wound it may be replaced on Sabbath." R. Jehudah said: "If it was moved up it may be moved down and if it was moved down it may be moved up, and it is permitted to remove part of the plaster and cleanse the exposed portion of the wound, then replace the plaster, remove another part, cleanse the exposed wound and again replace the plaster, but it is not permitted to cleanse the plaster because by so doing one would rub the plaster and if this was done it involves liability for a sin-offering."

Said R. Jehudah in the name of Samuel: "The Halakha prevails according to R. Jehudah."

R. Hisda said: The statement of the first Tana to the effect that a plaster may be replaced applies only to a plaster

that had fallen on a vessel but a plaster that had fallen to the ground must not be replaced.

Mar the son of R. Assi said: "It happened once that I was standing before my father and a plaster which he had on a wound fell on a cushion and he replaced the plaster. Said I to him: 'Does master not hold in accordance with the opinion of R. Hisda, who said that the first Tana and R. Jehudah differ only as to a plaster that had fallen on a vessel, and Samuel said that the Halakha prevails according to R. Jehudah. How then could master have replaced it?' and my father answered that he did not agree with R. Hisda."

MISHNA: They (the Levites performing on musical instruments) may tie a string (of an instrument which had burst, on Sabbath) in the Temple; but this must not be done in the country. To put a new string on the instrument (on Sabbath) is in either place prohibited.

GEMARA: There is a contradiction! Have we not learned that if a string of an instrument had burst, they only made a loop but did not tie it into a knot? This presents no difficulty. This latter is the opinion of R. Simeon, while the Mishna is in accordance with the opinion of the Rabbis, as we have learned in the following Boraitha: If a Levite had burst the string of an instrument he may tie it; R. Simeon, however, said: He may only make a loop in the string. Said R. Simeon ben Elazar: If he merely makes a loop, the sound will be affected; hence he should loosen the string at the top and draw it down to the bottom or loosen it at the bottom and draw it taut to the top.

MISHNA: They (the priests who minister) may remove a wart from an animal on Sabbath in the Temple, but this must not be done in the country; by means of an instrument it is prohibited to do so in either place.

GEMARA: There is a contradiction. We have learned: Concerning the paschal lamb, which must be carried on the shoulders or brought from without the legal limits and the blemish of which must be removed, these acts must not supersede the due observance of the Sabbath.

R. Elazar and R. Jose bar Hinana differ: One holds, that the Mishna and the Boraitha both treat of a case where the wart is removed merely by hand and not with an instrument, but the Mishna, which permits such removal, refers to a wart which had dried and is easily crumbled, while the Boraitha treats of a suppurating wart which involves a deal of trouble to remove. The

other, however, maintains, that the Boraitha refers to the removal of the wart with an instrument.

R. Joseph said: Both the Mishna and the Boraitha treat of a case where the wart was capable of being removed by hand, and they do not differ. The Mishna maintains, that any rabbinical prohibition which applies to the service of the Temple may be disregarded *in* the Temple, while the Boraitha holds, that any act pertaining to the service of the Temple which is generally prohibited must not be performed in the country (outside of the Temple).

Abayi was sitting and repeating the Halakha decreed by his master R. Joseph, and R. Saphra objected, saying: "Have we not learned in a Mishna [Tract Sabbath, p. 30]: that the Passover sacrifice may be turned around in the oven (on Friday) when it is getting dark, and the Passover sacrifice was not roasted in the Temple itself; hence we see, that the rabbinical prohibition was disregarded even outside of the Temple?" Abayi was silent. Subsequently he came to R. Joseph and told him R. Saphra's objection. Said R. Joseph to him: "Why didst thou not answer, that in that case the Passover sacrifice was prepared by an aggregation of men and an aggregation of men is generally very cautious?" [Why did Abayi not answer R. Saphra to that effect? Because he heard only, that the priests were very cautious, but never heard anything about an aggregation of men.]

Rabha, however, said: Our Mishna is in accordance with the opinion of R. Eliezer, who holds, that any preparation for the fulfilment of a commandment supersedes the observance of the Sabbath (but the reason that the Mishna prohibits the use of an instrument for removing the wart, is because even R. Eliezer admits, that whatever it is possible to do on Sabbath in a manner different from a week-day, should so be done). Whence do we adduce that R. Eliezer admits this? From the following Boraitha: "If a priest should suddenly discover a wart on his person on the Sabbath, his companion should remove it by means of his teeth." Hence we see that the wart must be removed by means of the teeth and not by instruments, and again that the priest himself must not do it but it must be done by his companion. According to whose opinion is this? Shall we say, that it is according to the opinion of the sages and it occurred in the Temple, why should his companion be obliged to do it? He could, according to the opinion of the sages, do it himself,

because a rabbinical prohibition may be disregarded in the Temple; therefore we must say, that it is in accordance with the opinion of R. Eliezer, who holds, that if an ordinary Israelite did this, he would be liable for a sin-offering, but because this is an act pertaining to the fulfilment of a commandment it may be done, but if it is possible to accomplish it in a manner different from that on a week day it should so be done.

MISHNA: A priest (ministering) who hurts his finger, may bind it up with reeds in the Temple (on the Sabbath), but this must not be done in the country. Squeezing out the blood is, in either place, prohibited. It is permitted to strew salt on the stairs of the altar (on Sabbath), in order to prevent the ministering priests from slipping. It is also permitted to draw water from the well Gola and from the large well by means of the rolling wheel on the Sabbath and from the cold well (on festivals).

GEMARA: R. Ika of Pashrunia propounded a contradictory question to Rabha: In our Mishna it is stated, that it is allowed to strew salt on the stairs, whence we see, that this may be done in the Temple only but not in the country; but have we not learned that if a court had become deluged by rain it is permitted to strew straw on the ground (so as to make it passable)? Answered Rabha: "With straw it is different! For he can eventually remove the straw and use it for another purpose."

Rabha related: "If a court had become deluged by rain, one may bring straw and spread it out on the ground (of the court)." Said R. Papa to him: "Have we not learned, however, that he should not spread the straw in the same manner as he does on a week day, *i.e.*, through a basket, or crate, but through the sides of a *broken* basket." Whereupon Rabha procured an interpreter (crier) and proclaimed: What I told you previously was a mistake! Thus was it taught in the name of R. Eliezer: When he comes to spread out the straw on the ground he should not do it by means of a basket or a crate but through the sides of a broken basket.

"*It is also permitted to draw water from the well Gola,*" etc. Ula was a guest in the home of R. Menasseh. A man happened to come along and knocked at the door. So Ula asked: "Who is it that is violating the Sabbath?" Said Rabba to him: "It was prohibited only to produce a sound by means of an instrument, but not to knock on the door." Abayi objected: "We

have learned that it is permitted to draw wine by means of a siphon or drip it through a colander for a sick person on the Sabbath (and it is known that both produce a sound).” So we see, that this is only permitted for a sick person but not for a healthy person. What purpose would it serve in the case of a sick person? To arouse him from slumber? Hence it is not permitted to produce a sound for a healthy person? Nay; dripping wine through a colander is supposed to produce a sound similar to that of a cymbal and it is done in order to induce sleep in the case of a sick person who had dozed off in slumber.

Is not, however, the prohibition to draw water from the well Gola or from the large well instituted on account of the sound produced by the rolling wheel? Nay; it is prohibited as a precaution, lest a man take water from such a well and sprinkle his garden or his ruins (to lay the dust).

Ameimar permitted water to be drawn from the wells in Mehuzza by means of a rolling wheel, saying: “The sages prohibited it as a precaution, lest a man sprinkle his garden or his ruin with that water, but here in this city there are no gardens and no ruins.” Afterwards he observed that the people used that water for the purpose of soaking flax during the week, so he prohibited the drawing of that water on Sabbath.

“*And from the cold well (on festivals).*” What is meant by the cold well? Said R. Na’hman bar Itz’hak: “That well was filled with spring-water.” Whence does R. Na’hman adduce this? From the passage [Jeremiah vi. 7]: “As a well sendeth forth its waters.”*

We have learned in a Boraitha: It was not permitted to draw water from all cold wells but only from the one mentioned; because when the Israelites returned from exile they together with their prophets who lived in that day drank therefrom and made it lawful to draw water from that well on Sabbath forever. The prophets would not have done this either, if it were not for the fact that they knew it to be an ancient custom of their ancestors.

MISHNA: Should (the carcass of) a dead reptile be found in the Temple on the Sabbath, the priest shall move it out with his belt, as an unclean thing must not remain within the Temple.

* The Hebrew term for “sendeth forth” is “hokir,” and the term for “cold well” is “Bor hak’ar,” whence R. Na’hman adduces that as a well which sendeth forth waters must necessarily be a spring, so this well called Bor Hakar was also a spring: a deduction by analogy.

Such is the dictum of R. Johanan ben Berokah; but R. Jehudah said: It should be removed with wooden pincers, in order that the uncleanness spread not further. From which (parts of the Temple) should it be removed? From the inner Temple, from the hall, and from the interspace between the hall and the altar. Such is the dictum of R. Simeon ben Nanos; but R. Aqiba said: It should be removed from every place (in the Temple) which, if entered by an unclean person intentionally, lays him liable to the punishment of Kareth (being cut off), and if entered inadvertently, makes him liable for a sin-offering. In all other parts of the Temple, the carcass of the reptile should be covered with a (copper) cooling-vessel (*ψυχτήρ*) till the Sabbath is over and then be removed. R. Simeon said: Whatsoever the sages permit thee to do is (not an infraction of biblical law, but) a right which is thine own; inasmuch as whatever they permit could at all events become unlawful only on account of their own enactments for the sake of the Sabbath-rest.

GEMARA: R. Tabhi bar Kisna said in the name of Samuel: "One who brings a thing, which had become unclean through a reptile into the Temple (if he does it intentionally), he becomes amenable to the punishment of Kareth (being cut off)* and (if he does it inadvertently) is liable for a sin-offering; but one who brings in the carcass of a reptile itself, is not culpable." Why so? Because it is written [Numbers v. 3]: "Both male and female shall ye send out," and this refers to such as have become unclean, but by taking a legal bath (Mikvah) can become clean. The reptile itself can never be clean, however, hence one is not culpable, if he brings it into the Temple.

Shall we assume that the point of variance between R. Johanan ben Berokah and R. Jehudah in our Mishna is based upon the above Halakha of Samuel, *i.e.*, R. Johanan, when stating, that an unclean thing must not remain in the Temple means to say, that if a man brought in a reptile, he is culpable, while R. Jehudah, who states that the reptile should be removed on account of the possibility of its spreading uncleanness, means to signify that a man who brings in a reptile is not culpable, and the reptile itself is merely a means of spreading uncleanness? Nay; both agree that a man is culpable, but R. Johanan means to assert, that the remaining of an unclean thing in the Temple is a far more grievous condition than the possibility of its

* See Numbers xix. 13.

spreading uncleanness, while R. Jehudah claims, that the spreading is of more consequence, hence he advises that wooden pinners be used but not the belt of the priest.

Thus we see, that whether a man is culpable or not is not the point of variance between the two teachers of the first clause in the Mishna but between the Tanaïm of the second clause commencing: "From which parts (of the Temple) should it be removed?" He who says, that it should be removed only from the inner Temple, from the hall, etc., holds, that if a man brought in a reptile into the Temple, he is not culpable, but R. Aqiba, who says that it should be removed from every place, etc., holds that the man who brings in the reptile is culpable.

R. Johanan said: Both Tanaïm, R. Simeon ben Nanos and R. Aqiba, adduced their teaching from one and the same passage, viz., II Chronicles xxix. 16: "And the priests went into the inner part of the house of the Lord to cleanse it; and they brought out everything unclean which they found in the temple of the Lord into the court of the house of the Lord; and the Levites received it, to carry it out abroad unto the brook Kidron." R. Simeon ben Nanos means to say, that because the Levites received the unclean things from the priests for further conveyance. it is evident, that only as far as the place where the transfer was made to the Levites, it is important that no uncleanness be found, and a rabbinical ordinance may be violated in order to remove such uncleanness, but from that place and further it is not of sufficient consequence to permit of the infraction of an ordinance instituted for the sake of the Sabbath-rest. R. Aqiba, however, means to say, that the finding of uncleanness in any part of the Temple is of sufficient importance to permit of the infraction of a rabbinical ordinance, and the reason that the priest transferred the unclean things to the Levites was because where Levites could carry it, the priests are exempt, but up to the place of transfer, although the priests were not permitted under ordinary circumstances to traverse the space except for ministerial duties, in that case the matter was of such importance that they were allowed to disregard that regulation.

The Rabbis taught: It is permitted for anyone to enter the Temple for the purpose of building, repairing, and also for the purpose of removing an unclean thing. It is a better fulfilment of that religious duty if a priest does so, and in lieu of a priest a Levite; but if there is no Levite on hand, an ordinary

Israelite may go. All of them, however, must be (ritually) clean (notwithstanding the fact that they are about to become unclean).

“*R. Simeon said: Whatsoever the sages permit,*” etc. What does R. Simeon refer to with this dictum? He has reference to, or in fact supplements his dictum in the fourth chapter of this tract (last Mishna) to the effect that “if a man was even fifteen ells beyond the legal limits he may nevertheless go back,” and referring to this he states, that this is merely the man’s own right, as the land surveyors are liable to err in the measurement.

“*As whatever they permit could at all events become unlawful,*” etc. What would R. Simeon refer to with this part of his statement? This latter part of his dictum refers to his statement in the Boraitha concerning a new string for an instrument (previously mentioned) when he decrees, that if the string is broken the Levite may tie it into a loop, and here he supplements it by saying, that whatever the sages permitted was only such an act as could not involve liability for a sin-offering; but any act which could involve liability for a sin-offering was not permitted by the sages to be performed.

NEW EDITION
OF THE
BABYLONIAN TALMUD

Original Text, Edited, Corrected, Formulated, and
Translated into English

BY
MICHAEL L. RODKINSON

SECOND EDITION—REVISED AND ENLARGED

SECTION MOED (FESTIVALS)
TRACTS SHEKALIM AND ROSH HASHANĀ
HEBREW AND ENGLISH

Volume IV.

BOSTON
THE TALMUD SOCIETY
1918

EXPLANATORY REMARKS.

In our translation we adopted these principles :

1. *Tenan* of the original—We have learned in a Mishna ; *Tania*—We have learned in a Boraitha ; *Itemar*—It was taught.
2. Questions are indicated by the interrogation point, and are immediately followed by the answers, without being so marked.
3. When in the original there occur two statements separated by the phrase, *Lishna achrena* or *Waibayith Aema* (literally, "otherwise interpreted"), we translate only the second.
4. As the pages of the original are indicated in our new Hebrew edition, it is not deemed necessary to mark them in the English edition, this being only a translation from the latter.

COPYRIGHT, 1896, BY
MICHAEL L. RODKINSON.

COPYRIGHT 1916, BY
NEW TALMUD PUBLISHING SOCIETY

TO
ERASMES GEST, ESQ.
OF CINCINNATI, OHIO
MOST RESPECTFULLY DEDICATED BY THE
EDITOR

TRACT SHEKALIM.

CONTENTS OF VOLUME IV.

HEBREW AND ENGLISH

ENGLISH.

TRACT SHEKALIM.

	PAGE
PREFACE,	xi-xii
SYNOPSIS OF SUBJECTS,	xiii-xviii

CHAPTER I.

OF THE DUTIES OF COURT IN THE MONTH OF ADAR— PAYMENT OF POLL DUTIES IN THE WHOLE REGION OF ISRAEL,	1-6
--	-----

CHAPTER II.

THE EXCHANGE OF COINS FOR SHEKALIM—THE PROVISIONS FOR THE SAVING OF MONEY FOR DIFFERENT OFFERINGS AND THE USE OF THE REMAINDERS,	7-11
--	------

CHAPTER III.

PERIODS AT WHICH MONEYS WERE DRAWN FROM THE TREASURY, AND THE CEREMONIES THEREAT,	12-15
--	-------

CHAPTER IV.

PURPOSES FOR WHICH MONEYS WERE DRAWN, AND WHAT WAS DONE WITH THEIR REMAINDERS AND THAT OF OTHER OFFERINGS,	16-19
--	-------

CHAPTER V.

THE MAIN OFFICES, THEIR OFFICERS, THEIR DUTIES, SEALS, AND CHAMBERS,	20-24
---	-------

CHAPTER VI.

	PAGE
THE THIRTEEN COVERED CHESTS AND OTHER PARAPHER- NALIA, AND RELIGIOUS CEREMONIES ADOPTED WITH THE NUMBER THIRTEEN,	25-28

CHAPTER VII.

MONEYS FOUND BETWEEN THE CHESTS, AND CATTLE FOR OFFERINGS FOUND IN THE VICINITY OF THE CITY OF JERUSALEM,	29-32
---	-------

CHAPTER VIII.

SPITTLE, UTENSILS, AND SUBMERGING OF THE DEFILED SACRIFICES,	33-36
---	-------

TRACT ROSH HASHANA.

OPINIONS OF SCHOLARS OF THIS ENTIRE WORK, . . .	v-xi
PARTIAL LIST OF SUBSCRIBERS,	xi-xii
A FEW WORDS TO THE ENGLISH READER, . . .	xiii-xviii
INTRODUCTION TO THIS TRACT,	xix-xxii
SYNOPSIS OF SUBJECTS OF THIS TRACT,	xxiii-xxviii

CHAPTER I.

OF THE FOUR NEW YEAR'S DAYS AS KEPT DURING THE PERIOD OF THE SECOND TEMPLE,	1-36
--	------

CHAPTER II.

THE OBSERVERS OF THE NEW MOON BEFORE THE HIGH COURT IN THE CITY OF JERUSALEM,	37-44
--	-------

CHAPTER III.

OBSERVING THE MOON BY THE HIGH COURT ITSELF—THE BLOWING OF THE CORNET ON THE NEW YEAR'S AND JUBILEE DAYS,	45-52
---	-------

CHAPTER IV.

WHEN NEW YEAR'S DAY FELL ON SABBATH—THE ORDER OF BENEDICTION AND PRAYERS ON THE SAME, . . .	53-66
--	-------

THE HEBREW PART.

(Order of pages, from right to left.)

TRACT SHEKALIM.

באחר באדר, פרק ראשון—THE FIRST OF ADAR, CHAPTER I.,	1-3
מצרפין שקלים, פרק שני—THE COINS OF SHEKALIM MAY BE EXCHANGED FOR DARKONS, CHAPTER II.,	4-5
בשלשה פרקים, פרק שלישי—AT THREE PERIODS, CHAPTER III.,	6-7
התרומה מה היו עושין בה? פרק רביעי—THE SEVERED (SHEKALIM): WHAT WAS DONE WITH IT?, CHAPTER IV.,	8-10
אלו הן הממונין, פרק חמישי—THE FOLLOWING ARE THE NAMES OF THE OFFICERS, CHAPTER V.,	11-13
שלשה עשר שופרות, פרק ששי—THIRTEEN CHESTS, CHAPTER VI.,	14-16
מעות שנמצאו בין, פרק שביעי—MONEYS FOUND BETWEEN, CHAPTER VII.,	17-18
כל הרוקין, פרק שמיני—ALL THE SPITTLE, CHAPTER VIII.,	19-20

TRACT ROSH HASHANA.

פרוודור להכנס לטרקלין (ובו ג' פתחים)—A CORRIDOR LEADING TO THE PALACE (CONTAINING THREE ENTRANCES).*	
פתח ראשון—FIRST ENTRANCE,	i-vii

* By these three entrances the editor illustrates his reasons for this enterprise and his method of correcting and translating the original. This has not been translated into English, for the reason that it would be of but little interest to the English reader who does not understand the Hebrew; it is, however, hoped that the reader of Hebrew will find great interest in the matter.

פתח שני—SECOND ENTRANCE,	vii-xiv
פתח שלישי—THIRD ENTRANCE,	xiv-xix
מכתבי תהלה—LETTERS OF APPROVAL,	xix-xxii
מבוא קצר—BRIEF INTRODUCTION,	xxiii-xxvi
ארבעה ראשי שנים הם, פרק ראשון—FOUR NEW YEAR'S DAYS, CHAPTER I.,	4-24
אם אינן מכירין אותו, פרק שני—IF THEY DID NOT KNOW HIM, CHAPTER II.,	24-28
ראוהו בית דין, פרק שלישי—IF THE BETH DIN SAW IT, CHAPTER III.,	28-32
יום טוב של ראש השנה, פרק רביעי—THE FESTIVAL OF THE NEW YEAR, CHAPTER IV.,	33-39

PREFACE TO TRACT SHEKALIM.

AMONG the treatises contained in the Section Moed of the Babylonian Talmud is to be found that of Shekalim, which consists, however, only of Mishnas, the Babylonian Talmud having no Gemara. The Palestinian Talmud contains a Gemara for this tract also, and there is an additional commentary by Maimonides. While we are translating only the Babylonian Talmud, we would not care to omit Shekalim, which is of peculiar historical value and may prove quite interesting to the reader. But the Mishna, without any explanation whatever, would naturally seem obscure, and in some instances would be absolutely incomprehensible; and, the Gemara of the Palestinian Talmud, as well as the commentary of Maimonides, consisting of very complicated and intricate series of arguments, inferences, and explanations, which would be not only difficult of translation but also immaterial to the subject, the insertion of which would be a deviation from our method, and unnecessary, as would explanations of Barthanora, Tosphath-yomtabh, etc., we were forced to provide the text with a commentary of our own, drawn from the most authentic sources. This, we trust, will serve to elucidate any obscure passages not quite comprehensible to the general reader. Accordingly, every sentence or word in the Mishna requiring an explanation is distinguished by a number or an asterisk, and has a corresponding reference in the commentary printed below the text. We may add that, for our personal satisfaction and to guard against any possible errors, we have given this tract for revision to some noted Russian scholars who are competent to judge upon it, and they find it very intelligible.

As stated above, we have taken our commentary from the most authentic sources we could find. We do not, therefore, solicit leniency on the part of worthy critics, but ask them to restrain their criticisms until they shall have carefully studied the commentaries mentioned, as well as *our* commentary, with proper consideration; for ours is derived from the Palestinian Talmud, Maimonides, etc. Conscientious critics will do so without our

solicitation; and as for others, who are ready to criticise everything impromptu as soon as it leaves our pen, such a request would be of no avail. We nevertheless will be grateful to any one who will call our attention to things which are not comprehensible in the commentary, this being our first venture of the kind, more especially as we think we shall be compelled to do the same with other Mishnayoths to which the Babylonian Talmud has no Gemara. A separate introduction to Tract Shekalim we think unnecessary, as the contents of this speaks for itself. We nevertheless will return to this when we come to Tract Midoth (Measures).

In compliance with our promise in our prospectus, we add to this volume the Hebrew text of the Tracts Shekalim and Rosh Hashana of our new edition, for the benefit of students and scholars who may desire to compare the translation with it.

M. L. RODKINSON.

NEW YORK, May, 1897.

SYNOPSIS OF SUBJECTS

OF

VOLUME IV.—TRACT SHEKALIM.*

CHAPTER I.

MISHNA *a* treats of: What were the duties of the Beth Din in the month of Adar in the time of the second Temple. When the Megillah (Book of Esther) was to be read in the fortified cities. For what purpose messengers were sent out, and what were the things to be heralded.

MISHNA *b* treats of: What was the punishment for not obeying the commandments of Kelayim in the former times and later.

MISHNA *c* deals with: When the money-changers, with their tables, began their work in the countries of Judea and in Jerusalem. The time for pledges which were taken for not paying the Shekalim. From what persons the pledges were to be taken. If a father might pay the Shekalim for his children.

MISHNA *d* treats of: What ordinance Ben Buchri proclaimed in Jamnia in behalf of the priests, and what R. Johanan b. Zakkai rejoined. The defence of the priests, with their interpretation of biblical passages, which was accepted only for the sake of peace.

MISHNA *e* treats of: The voluntary payment of Shekalim from women, slaves, and minors being accepted, but not from the heathens or Samaritans. Bird-offerings not accepted from persons affected with venereal diseases or from women after confinement. Sin and vow offerings, however, were accepted from the Samaritans. The vow-offerings were also accepted from heathens. The general rule concerning this.

MISHNA *f* deals with: The premium one had to pay in addition to the half-shekel. Who was obliged to do so? The different opinions of the sages and R. Meir. How much one had to pay if given one Selah and taking a shekel in exchange.

* See introduction to synopsis in Tract Sabbath, Vol. I., p. xxix. This tract has no Gemara. The synopsis contains the Mishnas, with their commentaries.

MISHNA *g* treats of: The law concerning one who pays for a poor man, for a neighbor, and for a countryman. Law concerning brothers and partners paying together; also, law regarding cattle-tithe. How much was the premium.

CHAPTER II.

MISHNA *a*. One may put together the Shekalim and exchange them for a gold coin called Darkon. Concerning the chests which were given to the collectors in the country and at Jerusalem. What is the law if money were stolen or lost by the messengers of a city, when a portion of the Shekalim was already expended; what is the law if not expended.

MISHNA *b*. Concerning the law when one gives his shekels to another to pay his head-taxes for him; if he pays his shekels from the money of the second tithes or from the money of the fruit of the Sabbatical year. Concerning how he shall replace it and use it for the same purpose.

MISHNA *c*. The law concerning one who gathered single coins little by little and said: "With this money I shall pay my shekels." The different opinions of the schools of Hillel and Shamaï in this matter. Concerning the same case when one gathers money for sin-offerings. What shall be done with the eventual remains of such money.

MISHNA *d*. Concerning the explanation of R. Simeon of the teachings of the school of Hillel. The discussion of the former with R. Jehudah. The claims of the latter that the coins of the Shekalim were also changed in times and places. The rejoinder of R. Simeon to this.

MISHNA *e*. The law concerning the remainder of money intended for Shekalim when considered to be ordinary. Regarding the remainder of the tenth part of an ephah, bird-offerings, and guilt-offerings: what shall be done with it. A rule concerning this matter. Also, regulations concerning the remainder of Passover sacrifices, Nazarite offerings, the remainder of moneys for the poor in general and individuals, of money for prisoners, for burial of the dead, and R. Meir and R. Nathan's opinions regarding this matter.

CHAPTER III.

MISHNA *a*. Regarding the appointed periods of the year when the money was drawn from the treasury. The different opinions, concerning this matter, of R. Aqiba b. Asai, R. Eliezer, and R. Simeon. The same time appointed for cattle-tithes.

MISHNA *b*. Concerning the ceremony of drawing the money at all periods of the year. The law regarding measures of the boxes in which the coins of the Shekalim were filled, and the numbers of the chests in which the money was drawn from the boxes for the expenses of the Temple. Which box must be opened first, and which last. What garments the person drawing the money must wear. How a man must stand unblemished before his fellow-man and before his God.

MISHNA *c*. Concerning the custom of the house of Rabban Gamaliel, when the members of the house had paid their Shekalim. The law regarding

one who drew money did not commence until he had said to the bystanders, "I will now draw," and they answered, "Draw, draw, draw," three times.

MISHNA *d.* Concerning the covering of the boxes after drawing the money. For which countries the drawings were performed in the first period, the second, and the third.

CHAPTER IV.

MISHNA *a.* What was done with the money drawn? Concerning the watchmen that were sent out to guard the after-growth of the Sabbatical year, of which the Omer and two loaves were taken for sacrifice. The opinion of R. Jose in this matter, and what the rabbis answered.

MISHNA *b.* Concerning the red heifer, the goat that was to be sent away, the strip of scarlet, the bridge for the cow, the bridge for the goat, the canal, the city wall, the towers, and other necessities of the city: all were paid for out of the Shekalim money. What Abba Saul said.

MISHNA *c.* What was done with the balance of the money left over in the treasury. The discussion of R. Ishmael and R. Aqiba in this matter. Some of the many things which are enumerated in the Palestinian Talmud and which were done with this money. Among them was the hiring of teachers for priests to teach them the laws of the sacrifices.

MISHNA *d.* What was done with the remainder of the moneys of the chest. The different opinions of R. Ishmael, R. Aqiba, and R. Hanina, the assistant chief of the priests, concerning profit: if it might be raised from the remaining money or not, and of what money the gold plates for the decorations of the Holy of Holies were made. Also, concerning the benefit of the altar.

MISHNA *e.* What was done with the remainder of the incense (as the incense of the New Year must be bought with the new Shekalim money). The sanctification of the incense on hand then transferred to that money, and then redeemed with the money of the new revenue.

MISHNA *f.* Concerning the law when one devoted his entire possessions in honor of the Lord: what should be done with them. The discussions of R. Aqiba and Ben Asai regarding this matter.

MISHNA *g.* Concerning the law when one devoted his possessions, and among them were cattle, male and female, fit for the altar. The discussions of this matter between R. Eliezer and R. Jehoshua. R. Aqiba is inclined to the opinion of R. Eliezer, which seems to him to be more proper, but adds that he had heard that both opinions were right according to circumstances.

MISHNA *h.* If one devote his possessions, and among them are things fit for the altar, such as wines, oils, and birds, what should be done with them. R. Eliezer decreed it, and no one opposed him.

MISHNA *i.* Contractors, for the delivery of all things for the altar and the improvements of the Temple, were appointed every month; but if the

prices changed during the thirty days, the Sanctuary must not suffer any injury. Such was the agreement made between them. The illustration of this.

CHAPTER V.

MISHNA *a*. Concerning some names of the offices and the heads of them in the Sanctuary during the entire period when the second Temple was in existence. What were the officers' duties, and how they officiated.

MISHNA *b*. Concerning the order of the head officers ; namely, the king, the high priest, his assistant, two catholicoses, and seven chamberlains, not less than two officers being put in charge of public moneys.

MISHNA *c*. Regarding the seals that were in the Sanctuary, serving for the beverages and meat-offerings which must be brought, according to the Bible, with every sacrifice. Concerning the inscription on the seals and their usage. Ben Azai added one seal for the poor sinner. The names of the officers, of the seal-keeper and the officer who sells the above offerings.

MISHNA *d*. The date must be put on every seal. The law regarding surplus money being found in the treasury of the seal-keeper : to whom it belongs ; and if a deficit, who must supply it.

MISHNA *e*. The law concerning one who lost his seal ; what must be done.

MISHNA *f*. Concerning the two chambers in the Sanctuary, of which one was called "Chamber of Silence" and the other "Chamber of Utensils." What was done there, during what time they were investigated, and what was done with the presented utensils which were useless for the Temple.

CHAPTER VI.

MISHNA *a*. Concerning the thirteen covered chests and thirteen tables which were in the Sanctuary. How many prostrations took place in the Sanctuary. How R. Gamaliel and R. Hanina, assistant chief of the high priest, added one in the place where the ark was hidden.

MISHNA *b*. Relates how a blemished priest who was engaged in selecting and peeling wood had noticed the place where the ark was hidden, but before he had time to tell it to the others he expired.

MISHNA *c*. Concerning the directions where the prostrations were made. How many gates were in the Temple : their names, and why they were so named ; also, different opinions of the sages concerning this. There were two gates which were nameless.

MISHNA *d*. Of what material the thirteen tables were made, where they stood, for what purpose they were used. Concerning the golden table in the Temple itself, upon which the showbreads were constantly lying.

MISHNA *e*. Concerning the inscriptions on the thirteen covered chests in the Sanctuary, and what was done with them. The different opinions of R. Jehudah and the sages as to using certain money put in some chests.

MISHNA *f*. Concerning the amount of articles to be furnished in payment of a vow one made, who did not explain how much he intended to give; for instance, wood, incense, gold coins, etc. A rule that was made concerning this. The hides of all sacrifices belong to the priest.

CHAPTER VII.

MISHNA *a*. If money was found in between the differently marked chests, to which chest the money belonged. Concerning this the rule was: One must be guided by the proximity, even in the case of the less important, etc.

MISHNA *b*. Concerning money found in Jerusalem, in the court of the Temple, in the times of the Festivals and in the ordinary times.

MISHNA *c*. Concerning meat found in the court of the Temple, in the city, and any place where Israelites resided and where Gentiles and Israelites together resided.

MISHNA *d*. Concerning cattle found between Jerusalem and Migdal Eder, and in the vicinity of the city in all directions: what the law prescribes. The different opinions of some sages.

MISHNA *e*. Relates how, in former days, the finder of such cattle was pledged to bring drink-offerings, and how afterwards the high court decreed to furnish them from the public moneys.

MISHNAS *f* and *g*. R. Simeon named seven decrees which were promulgated by the high court, and the above decree was one of them. R. Jehudah, however, does not agree on some points with him. R. Jose has also something to say about this.

CHAPTER VIII.

MISHNA *a*. Concerning streets in which people must walk during the time of the Festival in Jerusalem, for the sake of cleanness. The different opinions, in this matter, of R. Meir and the sages.

MISHNA *b*. Regarding utensils found on the way towards the plunge-baths: if they are clean or not, and the different opinions of R. Meir and R. Jose.

MISHNA *c*. Regarding the butcher-knife, if it was found in the street on the 14th of Nissan; and what is the case if the 14th falls on a Sabbath.

MISHNA *d*. Concerning where the curtain of the Sanctuary must be submerged if it become defiled. The first time it was submerged it was spread out for the people to admire the beauty of the work.

MISHNA *e*. What Rabban Simeon b. Gamaliel had to tell in the name of Simeon, the son of the assistant high priest. How the curtain was made: the great amount of the cost and how many hundred priests were required to submerge it.

MISHNA *f*. If meat of the Holy of Holies became defiled, where it must be burned. The different opinions of the schools of Shammai and Hillel on this point.

MISHNA *g*. The different opinions of R. Eliezer and R. Aqiba concerning anything that had become defiled through a principal uncleanness.

MISHNA *h*. The joints of the daily sacrifices, where they were laid down ; the sacrifices of the new moon, where they were placed. The payment of Shekalim, if it was obligatory after the destruction of the Temple. The same law regarding cattle-tithe, tithes of grain, and deliverance of the firstlings. The law if one sanctified Shekalim or firstlings after the destruction of the Temple.

TRACT SHEKALIM.

UNDER this heading the payment of a head-tax is treated of, which amounted to one-half of a shekel (in the Mishna always referred to as a *shekel*) and which had to be paid by every Israelite (see Exodus xxx. 12) upon the completion of his twentieth year. In the times of the existence of the Temple, the proceeds of this tax were applied for communal sacrifices and for the needs of the capital. The manner of collection, investment, and application of this money forms the subject of this treatise. It contains, in addition, many other historical regulations, most of which, however, only held good during the existence of the second Temple.

CHAPTER I.

MISHNA: (*a*) On the first day of the month of Adar, warnings are heralded (from Jerusalem) concerning Shekalim¹ and Kelayim² (the prohibition concerning the use, for ploughing to-

EDITOR'S COMMENTARY.

CHAPTER I.

MISHNA *a*. ¹ Warnings were heralded from Jerusalem concerning Shekalim on and after the first of Adar, in order to prepare for the first of Nissan, before which day the final settlement of Shekalim had to be made. This was inferred by the Palestinian Talmud from the following passage [Exodus xl. 17]: "And it came to pass in the first month in the second year, on the first of the month, that the tabernacle was reared up." This was commented upon by a Boraitha, which stated, that on the day on which the tabernacle was reared up, the entire sum of the Shekalim collected was ready for disbursement.

² Warnings were also heralded concerning Kelayim, because that month was the time when ploughing and sowing commenced in Palestine.

gether, of an ox with an ass, and the sowing together of different kinds of seeds). On the fifteenth day of that month the Megillah Esther³ is read in the fortified cities; and the same day the improvement of country roads,⁴ market-places, and legal plunge-baths is proceeded with. Public affairs are again taken up⁵; at the same time, graves are marked with lime,⁶ and messengers are sent out on account of possible Kelayim.⁷

³ The Megillah (Book of Esther) was read on the fifteenth day of this month only in such cities as were fortified since the time of Joshua the son of Nun; but in such as were fortified after his day, and in the open cities, it was read on the fourteenth of the month. No mention is made in the Mishna concerning the reading on the fourteenth, because, the majority of the cities being open, or fortified since the time of Joshua ben Nun, it was generally known, and there was no fear of it being forgotten. In the few fortified cities, however, it was necessary to remind the inhabitants that the day on which *they* were to read the Megillah was the fifteenth. The Palestinian Talmud (Chapter I., Halakha 2) states, that we are taught by this Mishna that all commandments which are to be fulfilled on a leap year in the second Adar should not be fulfilled in the first Adar; but we cannot see how that can be inferred from this Mishna, although some commentators have tried to explain it.

⁴ The rainy season ended by the first of Adar, and in consequence of the heavy rains the country roads and market-places were in bad condition. In the month of Nissan, travel towards Jerusalem was very heavy; hence the warning to improve the roads, etc., was heralded. The public plunge-baths were also injured by the rains and had to be repaired, for the sake of the public, to whom the law prescribes the taking of a legal bath on or before the holidays.

⁵ The Palestinian Talmud states, that at that time the courts of law (Beth-din) would meet in session for the trial of civil suits, criminal cases, and crimes involving the punishment of stripes; for the redemption of such as had devoted all their possessions in honor of the Lord, and such as had given the estimated value of their person, etc.; also for the performance of the rite of the bitter water (see Numbers v. 12-31), and for the performance of the rite of breaking the calf's neck (see Deut. xxi.), and for the rite of the red heifer (see Numbers xix.), and for the ceremony of piercing a serf's ear (see Exodus xxi.). For all this, and any other matters that came up before them, the courts of law assembled in that month.

⁶ Such graves as had been injured during the rainy season, and

(b) R. Jehudah says: At one time the messengers used to pull out the Kelayim (illegally mixed seeds) and throw them at the feet of the owners! The number of the transgressors, however, being constantly on the increase, the Kelayim were pulled out and thrown into the roads. Finally, it was determined that the entire fields of such law-breakers were to be confiscated.*

(c) On the fifteenth of this month (Adar) the money-changers outside of Jerusalem seated themselves at their tables.¹ In the city of Jerusalem, however, they did not do this until the twenty-fifth of the month.² As soon as the money-changers seated themselves also in the city, the taking of pledges from

were not marked, had to be restored and marked, in order that a man be saved the annoyance of becoming unclean by stepping on a grave. The Palestinian Talmud infers this from the passage [Leviticus xiii. 46]: "Unclean, unclean, shall he call out," and interprets it to signify that the uncleanness itself should call out "unclean" and keep men away from its vicinity. For this reason it was heralded, that the graves were to be marked in order to be a warning to passers-by that such places were unclean.

¹ On account of the severity of the law concerning Kelayim and the frequency with which that law was infringed, it was deemed insufficient merely to herald the prohibition, and messengers were sent out to see the law enforced (Maimonides).

MISHNA *b*. * R. Jehudah's dictum does not intend to dispute the foregoing, but merely supplements it with the statement that the messengers sent out were for the purpose of punishing the infractors of the law of Kelayim. The Palestinian Talmud adduces the right of the Beth-din to confiscate property from the passage [Ezra x. 8]: "And that whosoever should not come within three days, etc., all his substance should be devoted." Whence it may be seen, that a Beth-din has such power.

MISHNA *c*. ¹ It was the custom for money-changers in those days to carry their tables with them, and hence they were called "the men of the tables." The Mishna relates, that on the fifteenth of the month the money-changers were ordered to go out into the rural districts with their tables, in order to provide the people with the necessary half-shekels; for the tax had to be paid in half-shekels only.

² On the twenty-fifth, when it was high time for payment and the people commenced flocking into the city of Jerusalem, the money-changers returned and sat in the court of the Temple.

the tardy ones commenced.³ But from whom were pledges taken? From Levites, Israelites, proselytes, and freedmen; but not from women, slaves, and minors. If a father, however, commenced to give a pledge for a minor, he was not allowed to stop. From priests no pledges were taken, for the sake of peace (and the dignity of the priests themselves).⁴

(*d*) Said R. Jehudah: Ben Buchri proclaimed the following ordinance in Yavne (Jamnia): "Any priest paying his shekel commits no wrong." R. Johanan ben Zakai, however, rejoined: "Not so! (The ordinance should read:) 'Any priest not paying his shekel, commits a sin.'"¹ But the priests used to interpret the following passage to their advantage: It is written [Leviticus vi. 16]: "And every meat-offering of a priest shall be wholly burnt, it shall not be eaten." (They said therefore:) Were we obliged to contribute (our shekels) how could we eat our² Omer

³ The taking of pledges commenced immediately upon the departure of the money-changers from the rural districts, because, if a man had not paid his half-shekel while the money-changers were still within his reach, it was obvious that he either would not or could not pay it, and in consequence a pledge was taken.

⁴ According to law, the priests were also in duty bound to pay the half-shekels, the collection of which was mainly intended for the purchase of communal sacrifices, and the priests were naturally included in the community. They, however, found a defect in the law, and held themselves exempt. In consequence of their being in authority during the existence of the second Temple, they were not forced to pay or give pledges, for the sake of harmony.

MISHNA *d*. 'The difference of opinion between Ben Buchri (who was a priest himself) and R. Johan ben Zakai is, as can be plainly seen, that Ben Buchri holds, that according to law the priests are not in duty bound to pay the half-shekel; but if they do it, they may nevertheless partake of their Omer, two loaves, and showbread, while R. Johan ben Zakai says, that they are in duty bound to pay the half-shekel.

² The priests claim, that if they were to pay the half-shekel with which the Omer, etc., is bought, they would naturally have a share in it, and they would eat their share, which, as a priest's offering, must not be eaten by any one. This is, however, an unjust claim; for the majority is considered, and the priests were by far in the minority. As the priests, however, were in charge of the affairs of state, they interpreted the law to suit themselves, and for the sake of peace they were not disturbed.

(first sheaves harvested) and the two loaves and the showbread (which were procured with the shekels of the head-tax) ?

(e) Although it was ordained that no pledges were to be taken from women, slaves, and minors, if they offered to contribute, their money was accepted. From heathens and Samaritans it was not accepted. Nor were bird-offerings, for men or women afflicted with venereal disease and for women who had recently been confined, accepted; nor sin and guilt offerings.¹ Vowed and voluntary offerings, however, were accepted.² The following is the rule: Everything which was vowed as an offering and all voluntary offerings were accepted. Anything not vowed for offering or given voluntarily was not accepted from them (heathens and Samaritans). So it is explicitly declared in Ezra, for it is written [Ezra iv. 3]: "It is not for *you* and us (both) to build a house unto our God."

(f) The following are obliged to pay a premium¹ (in addi-

MISHNA e. ¹This clause of the Mishna refers, according to the Palestinian Talmud and Maimonides, to Samaritans only and not to heathens, while the sin and guilt offerings were accepted from Samaritans but not from heathens, because the latter had not the same laws as the Israelites as regards sin-offerings. The Samaritans, however, claiming to be Israelites, were allowed to bring their sin and guilt offerings. The reason, however, that bird-offerings were not accepted from the Samaritans was because, in the first place, an offering for a person afflicted with venereal disease had to be brought in the form of a sheep; but if the person could not afford a sheep, birds answered the purpose. The Samaritans, however, were not considered trustworthy, and it was feared that they might bring a wrong offering (*i.e.*, an offering of less value than they could afford).

²These were accepted from heathens also, because such offerings were for forgiveness of sins in general, and in that respect all men are equal.

MISHNA f. ¹The shekel mentioned in the Bible is equivalent to the Sela mentioned in the Mishna, and is worth two shekels of the Mishna. The half-shekel of the Bible was worth (according to Maimonides) the weight of 192 grains of barley in silver, and, for fear that the shekel of the Mishna of that time was perhaps a trifle less than the above weight, a small coin was prescribed to be paid in addition to the above shekel, and which was named from the Greek Colobbus (κόλλυβος). He who gave the half-shekel voluntarily, and not because he was obliged to pay it, was exempt from paying the above "Colobbus." Those of the priests who, regardless of the

tion to the half-shekel): Levites, Israelites, proselytes, and freedmen; but not (priests,) women, slaves, and minors. If one pay (the half-shekel) for a priest, woman, slave, or a minor, he is exempt (from paying the premium); if he pay for himself and another, however, he must pay a premium for one. R. Meir says: "(He must pay) two premiums. One who pays a Sela (whole Bible shekel) and receives in return a half (Bible) shekel must pay two premiums."²

(*g*) If one pay for a poor man, for a neighbor, or for a countryman, he is exempt from a premium (because it is charity); if he only advances them the money, he is not exempt. Brothers who (after dividing their inheritance) have their business in common, or partners, when they become obliged to pay a premium, are exempt from cattle-tithe.* As long, however, as they must pay cattle-tithe, they are exempt from a premium. How much does the premium amount to? According to R. Meir, to one silver Meah (one twenty-fourth of a shekel); but the sages say, to one-half of a Meah.

claim that they were not obliged to pay the half-shekel, paid it nevertheless, were exempt from the above premium for the sake of peace.

² One in addition to the half-shekel and one for the exchange.

MISHNA *g*. * Cattle-tithe must be paid by a man only from such young as his own cattle calve, but not from the calves which he purchases elsewhere. If two brothers inherit cattle or calves from their father, they must pay cattle-tithe, because the cattle are regarded as still their father's. If they have divided their inheritance, even though they shared alike, they are both exempt from payment, because it is regarded as if one brother had bought the cattle from the other. (The same refers to partners. As long as they are in partnership they are liable for cattle-tithe from such young as is calved by their own cattle, but if the partners dissolve even after the cattle had calved, they are exempt, because it is regarded as if one partner had purchased his share from the other.) Now, it is obvious that when the two brothers are still partners and liable for cattle-tithe they are regarded as one, and by paying one Sela for both are exempt from premiums, because the money is still considered as their father's. (This explanation is taken from Rashi in Tract Chulin.) As soon, however, as they are exempt from cattle-tithe, they have nothing more in common, hence must pay a half-shekel each, and thus must also pay the premium.

CHAPTER II.

MISHNA: (a) One may put together the Shekalim and exchange them for Darkons¹ (Greek coins of permanent value), in order to be able to carry them more readily. Just as the money-chests were on the order of horns in the city of Jerusalem, so were they also in the country.² If the inhabitants of a town sent their Shekalim (to the city of Jerusalem) by messengers, and the money was stolen from them or was lost by accident, if the treasurers had already drawn their share (from the communal Shekalim), the messengers of the city must swear to the fact before the treasurers. If the share had not yet been drawn, they (the messengers) must swear to the facts before the inhabitants of the town, and the latter must make the amount good.³ If the money was recovered or returned by the

CHAPTER II.

MISHNA a. ¹The Darkon (Greek *Δαρεινός*; or *drachm*, biblical term, Ezra viii. 27) was a Persian gold coin worth two Selas, or four half-shekels.

²The money-chests were narrow on one side and broad at the bottom, and had a slot through which a Darkon on edge only could be passed, and were given to the messenger locked.

³If a portion of the amount of Shekalim collected had already been spent for sacrifices or for the improvement of the Temple, all the Israelites who were bound to pay their Shekalim had a share in such disbursement, and the amount sent by the town, although lost or stolen, was counted as if it had been included in the amount spent, because it was the express understanding that in every shekel spent for sacrifices, etc., all Israelites had a share, in order that they might have a share in the sacrifices. Therefore, the messengers of the city had simply to swear that they had taken the money, and it was considered received by the treasurers. If, however, no portion of the Shekalim had yet been expended, the share of the inhabitants of the town, whose money had been stolen or lost, was not included in the amount on hand, and hence the representatives of the city were obliged to make it good (Maimonides).

thieves, both amounts are considered as Shekalim, and nothing is credited to next year's account.

(b) If one give his shekel to another to pay (his head-tax) for him, and the man appropriates it to pay his own tax, he (the latter) commits embezzlement if the share had already been drawn; the same is the case with one who pays his shekel with sanctified money, after his share had been drawn and an animal was sacrificed for it.¹ If he took the money from the second tithes or from the Sabbatical year fruit, he must eat the full value of same in the city of Jerusalem.²

(c) If one gather together single coins and say: "These shall serve for my Shekalim," the eventual remainder is, according to the school of Shamaï, a voluntary gift; according to the school of Hillel, it is not sanctified. If the man say, however: "Out of these I shall pay my Shekalim," the eventual remainder is, according to both schools, not sanctified. If he say: "These shall serve me for a sin-offering," the eventual remainder is, according to both schools, a voluntary offering. If he say: "Out of these will I bring a sin-offering," the eventual remainder is, according to both schools, not sanctified.*

MISHNA *b.* ¹The same reason as stated in note 3 of the preceding Mishna applies also to this clause; and, besides, everybody had a share in the sacrifice of the animal, even if the sacrifice were made on the strength of future receipts, for pledges were on hand insuring the payment by the delinquents.

²If the money was taken from the second tithes, the value of which had to be consumed in the city of Jerusalem, he must replace it by an equal amount and proclaim that this money is in exchange for the money taken from the second tithe, and then consume it accordingly. If the money was taken from the Sabbatical year fruit, he must replace it and proclaim the same as above and make it public property, as is the law of Sabbatical years.

MISHNA *c.* * The meaning of this Mishna is as follows: If a man gathered money little by little, with the express intention of paying his shekalim tax out of such money, and separated it from other moneys, any remainder which he may have left over after such payment is, according to the school of Shamaï, to be devoted for a voluntary offering, because it was separated; and according to the school of Hillel, it is ordinary money, that may be used at will, because it was gathered only for the purpose of paying the amount due, which was already paid. If a man, however, had a sum of

(d) R. Simeon says: "What difference is there here between the Shekalim and the sin-offerings? Shekalim have their fixed value, but sin-offerings have not."¹ R. Jehudah says: "Even Shekalim have no fixed value; for when Israel returned from captivity, (half-) Darkons were paid; later (half-) Selas were paid; again, Tabas (half-shekels) were current (but not accepted), and finally people would only pay with Dinars."² Rejoined R. Simeon: "Nevertheless, the Shekalim were all of like value at one and the same time, while as for sin-offerings, one brings one Sela's worth, another two, and a third three Selas' worth."³

(e) The remainder of moneys intended for Shekalim is not

money, and declared that he would use *this* sum for the payment of his shekalim tax, the remainder which he may have after such payment is, even according to the school of Hillel, to be devoted for a voluntary offering. With money devoted for a voluntary offering, whole-offerings only were to be bought.

MISHNA *d.* 'By his teaching in this Mishna, R. Simeon wishes to explain the reason of the decree of the school of Hillel concerning the remainder of money which had been gathered little by little for the purpose of paying the Shekalim, or for the bringing of a sin-offering, and says: "Because it is written [Exodus xxx. 15], 'The rich shall not give more, and the poor shall not give less, than the half of a shekel,' a man when gathering money for the payment of Shekalim knows exactly how much he will need; hence, although he separated the amount gathered, the remainder is ordinary money; but if he gathered money for a sin-offering, which has no fixed value, and for which he did not know exactly how much he would have to pay, his intention in separating the money was evidently to use the entire amount for such purpose, and hence the eventual remainder, which cannot be used for a sin-offering, as it is already sacrificed, should be used for a voluntary offering."

² R. Jehudah differs with R. Simeon, and states, that the reason given by the latter for the decree of the school of Hillel cannot be correct, for even Shekalim had not always a fixed value, and when a man commenced to gather money for the payment of his Shekalim he also may not have known how much he would have to pay when the time came, because the value of the coin might be changed in the meantime.

³ R. Simeon answered R. Jehudah very properly: "Even if the value of the coin was changed, the man knew well that he would pay a certain sum equal to that paid by all others, and the entire amount

sanctified.¹ The remainder of moneys intended for the offering of the tenth part of an ephah [Lev. v. xi.] (sin-offering of the poor), for bird-offerings of men or women afflicted with venereal disease and of women that had been recently confined, and for sin and guilt offerings, are considered voluntary offerings. Following is the rule: The remainder of everything designated for sin and guilt offerings is considered as a voluntary offering.² The remainder of whole-offerings is applied to whole-offerings,³ of food-offerings to food-offerings, of peace-offerings to peace-offerings; that of the Passover-offerings to peace-offerings, and that of Nazarite-offerings to Nazarite-offerings. The remainder of such (offering) as is designated for a certain Nazarite is a voluntary offering. The remainder of moneys for the poor in general, belongs to the poor; of money collected for a certain poor man belongs to that same poor man. The remainder of ransom moneys for prisoners is applied to (the ransom of) other prisoners; of moneys collected for a certain prisoner belongs to that prisoner. The remainder of burial moneys is applied to (the burial of) other dead; of money collected for a particular dead (man) belongs to

that he had gathered would not be consumed; as for a sin-offering, however, he never knew exactly just what amount he would need for its purchase, because it had no fixed value; therefore, when he separated the money from other moneys his intention was to use the entire amount."

MISHNA 2. ¹ After explaining the opinions of both schools (Shamai and Hillel) in the preceding Mishna, and the Halakha, as usual, prevailing according to the school of Hillel, this Mishna states the final Halakha anonymously, and then cites the subsequent ordinances, concerning which there is no difference of opinion.

² The reason for this rule is: A sin or guilt offering must be brought for each sin separately. If money was designated for one sin-offering, the remainder cannot be applied to another offering for the same sin, nor for another sin which one might commit in the future, hence the remainder must be a voluntary offering.

³ The remainder of whole-offerings may be used for more whole-offerings, because the quantity of whole-offerings, which are voluntary, is not limited. The same applies to food and peace offerings. The remainder of Passover-offerings, however, which cannot be used for the same purpose again, and should, however, be used for an eatable sacrifice, cannot be used for a voluntary offering, which is a whole-offering, but for a peace-offering, which is eatable.

the legal heirs. R. Meir says: "The remainder remains intact until Elijah comes again" (as the herald of the resurrection).⁴ R. Nathan says: "It should be applied to the building of a gravestone for the departed."

⁴ The reason for R. Meir's dictum is: He holds, that if money is collected for a certain dead man, the remainder belongs virtually to him, *i.e.*, should be applied only for the use of the corpse; hence the heirs have no share in it. R. Nathan, however, says, that the setting up of a gravestone is for the use of the corpse, it being in his honor and not of any benefit to the heirs.

CHAPTER III.

MISHNA: (*a*) At three periods of the year money is drawn from the treasury (of the Shekalim); viz.: Half a month before Passover, half a month before Pentecost, and half a month before the Feast of Booths. The same dates are also the terms for the obligation of cattle-tithing, so says R. Aqiba. Ben Azai says: "The dates for the latter terms are the twenty-ninth of Adar, the first of Sivan, and the twenty-ninth of Abh." R. Eliezer and R. Simeon both say: "The first of Nisan, the first of Sivan, and the twenty-ninth of Elul." But why do they say the twenty-ninth of Elul, why not the first of Tishri? Because that is a feast-day, and it is not allowed to tithe on a feast-day; therefore they ordained it for the preceding day, the twenty-ninth of Elul.*

(*b*) The money drawn from the treasury was brought in three chests, each of three Saahs' capacity. On these chests was written: Aleph, Beth, Gimmel. R. Ishmael says: "They were marked in Greek: Alpha, Beta, Gamma."—The one that drew the money was not allowed to enter (the treasury) with a turned-up garment, nor with shoes nor sandals, nor with Tephillin, nor with an amulet, in order that, in the event of his becoming impoverished, it should not be said that he was thus punished on account of transgression against the treasury; or if he became rich, that he enriched himself by means of money drawn from the treasury. For a man must stand as unblemished before his fellowman as before his God, as it is written [Numbers

CHAPTER III.

MISHNA *a*. * The dates of the time for cattle-tithing have nothing to do with the time for drawing the money; for as to that time, all agree upon the dates stated in the Mishna, and the difference of opinion concerning the time of cattle-tithing is explained in the Palestinian Talmud and in Tract Rosh Hashana of the Babylonian Talmud.

xxxii. 22]: "And ye be thus guiltless before the Lord and before Israel"; and [Proverbs iii. 4]: "So shalt thou find grace and good favor in the eyes of God and man." *

(c) The members of the family of R. Gamaliel used to enter, each one with his shekel between his fingers, and throw it before the one who drew the money from the treasury, and the latter immediately placed it into the chest (which he took out).—The one who came in to draw the money did not proceed before he had said to the bystanders: "I will now proceed to draw," and they had answered: "Draw, draw, draw," three times. *

MISHNA *b*. * In this Mishna the manner of drawing the money from the treasury is described: how it was accomplished, that the Shekalim for which communal sacrifices were bought should be taken from the treasury in such a manner that all the contributors should have a share in them. The mode of procedure was as follows: About the middle of the month of Nissan, when the money from all Israel had been collected, the treasurers, amid great ceremony, would open the rooms where the boxes in which the money had been deposited by the collectors were situated, and bring out all the boxes contained in the rooms. These boxes were in turn opened, and their contents thrown into three cases, each of which had nine Saahs' capacity, and were covered with a cover. The remainder, after filling the three cases, was called the remainder of the room (and what was done with this will be told later). After the performance of this ceremony one man was selected, while the others withdrew, and he was to transfer the money to be expended, from the cases into three small chests, each having three Saahs' capacity and marked with three letters: Aleph, Beth, Gimmel; or, Alpha, Beta, Gamma.

MISHNA *c*. * After this ceremony, the man, being almost nude—for he had no garments on in which he could conceal a coin, no shoes, no sandals, no hat, no hose; in fact, nothing that would afford a hiding-place for money—would take the chest marked Aleph and bring it up to the first case, and fill it up, after which he would cover the case. Then he would take the chest marked Beth, fill it from the second case, cover the case, and proceed in the same manner with the chest marked Gimmel, from the third box, which contained nine Saahs' capacity; but in the last instance he would leave the case uncovered, as a sign whence to commence filling the chests at the second drawing of money in the same order as before, using the third case first, then the second, and lastly the first. This was done in order that the money should be thoroughly intermingled

(d) After the man had completed the first drawing, he covered the balance with a cover (of fur); the same was done after the second drawing; after the third drawing the balance remained uncovered; for (the covering in the first two instances) was done only in order not to draw by mistake again what had already been drawn from. The first drawing was performed in the name of the whole land of Israel, the second in the name of the cities near the boundaries, and the third in the name of the inhabitants of Babylon, Media, and all distant lands in general.

and everybody have a share in the sacrifices bought with it. The first drawing took place on the fifteenth of Nissan, and sacrifices were purchased for the Passover. The next drawing was held fifteen days before Pentecost; and Pentecost only lasting one day, not so many sacrifices were needed, and the money lasted until fifteen days before the Feast of Booths, when the last lot of money was withdrawn from the cases and placed in the chests. The expenditure of the money was also made in the order of chests, chest Aleph being emptied first, etc.; and the intention was to place Jerusalem first, the surrounding territory next, and all the other places where Israelites dwelt last.

CHAPTER IV.

MISHNA: (*a*) What was done with this money drawn? The daily sacrifices, the additional sacrifices, and the drink-offerings belonging to them were bought therewith; also the Omers¹ (sheaves), the two loaves, the showbreads, and communal sacrifices in general. The watchmen who had to guard the after-growth on the Sabbatical year were paid out of this money. R. Jose says: "One who so desired could undertake the guarding (of the after-growth on Sabbatical years) without pay."² The sages answered him: "Thou wilt admit thyself, that the sacrifices (from the after-growth on Sabbatical years) must be brought only from communal property."³

CHAPTER IV.

MISHNA *a*. ¹ The Omers and the two loaves, which had to be made of Palestinian grain and of the new crop only, were bought out of the Shekalim during the six ordinary years, but in the Sabbatical year, where neither sowing nor reaping was done, where were they obtained? Men were sent out to discover where grain was growing as an after-growth, that had not been sown, and then watchmen were placed there to see that no one disturbed the crop; for it being public property, the possessor of the soil where the grain grew could not prevent its being taken. The men who discovered the grain and the watchmen were paid for their services out of the Shekalim, and such payment was regarded as the price of the grain, so that the grain again became communal property.

² R. Jose, in making this statement, holds, that one may present the community with a thing intended for a voluntary offering, and thus the man who guards the after-growth gratuitously, thereby acquiring a right to it, may donate it to the community for a communal sacrifice.

³ The sages mean to say that the Omer, the two loaves, the showbreads, and the communal sacrifices must be taken from articles that were communal property from the beginning, while other sacrifices may be offered from things donated by a man who does so with a good will. (See Rosh Hashana.)

(b) The red heifer, the goat that was to be sent away (on the Day of Atonement), the strip of scarlet, were paid for out of this money. The bridge for the cow, the bridge for the goat that was to be sent away, and the scarlet strip tied between the latter's horns, the canal (at the Temple), the city wall, the towers and other necessities of the city, are paid for out of the remainder of the treasury-money.* Abba Saul says: "The costs of the building of the bridge for the red heifer were defrayed by the high priests themselves."

(c) What was done with the balance left over in the treasury (after all the things in the preceding Mishna had been procured)? Wines, oils, and fine meal were bought with it to the profit of the sanctuary (for the purpose of selling it again to those who brought sacrifices).* So said R. Ishmael. R. Aqiba, however, says: "Sanctified moneys or contributions for the poor are not dealt with for profit."

(d) What was done with the remainder of the money (taken from the chests)? It is used for gold plate for the decoration of the Holy of Holies. R. Ishmael says: "The mentioned fruit (profit of the wines, oils, and fine meal sold in the Temple) was for the benefit of the altar, and the remainder of the money drawn was for service-utensils." R. Aqiba says: "The remainder of the money drawn was for the benefit of the altar and that of the drink-offerings was for service-utensils." R. Hanina, the assistant chief of priests, says: "The remainder of the drink-

MISHNA *b*. * The remainder of the Shekalim, left over after the three cases had been filled, which was called "remainder of the room," was stored in a high place, access to which was very difficult, no ladder being permitted to be used. Out of this money all the accessories for the sacrifices, as enumerated in the Mishna, were procured. The details of these accessories are explained in Tracts Para and Yuma.

MISHNA *c*. * It is known that all those who brought sacrifices were obliged to purchase wine, oil, and fine meal for meal-offerings, and all this was purchased in the court of the Temple. In the Palestinian Talmud many things are enumerated, for which purposes the balance of the money was used; for instance, the hiring of teachers to instruct the priests in the art of slaughtering, in the halakhas pertaining to such matters, etc., also for the payment of those who investigated blemishes in the sacrifices, and a great many other things to be found in that chapter (Halakha 4).

offerings was for the benefit of the altar and that of the money drawn was for service-utensils." The two latter would not admit of the alleged gain from fruit * (profit).

(e) What was done with the remainder of the incense? ¹ At first the remuneration of the preparers of the incense was set aside from the treasury; the sanctification of the incense on hand was then transferred to that money, and the former was then given to the preparers in lieu of compensation ²; it is then bought back from them with the money of the new revenue: providing the new revenue was on hand in time, it was bought back with such money; otherwise, the old revenue was used for that purpose.

(f) If one devote his entire possessions in honor of the Lord, and among them are things which are fit for communal sacrifices (*e.g.*, incense), the preparers of the incense should be paid therewith. So teaches R. Aqiba. Ben Azai answered him *: "Such is not the right mode of procedure. The compen-

MISHNA *d.* * In the preceding Mishna, R. Ishmael declares, that the balance of the money in the treasury is used to purchase wines, oils, and fine meal, to be resold to those bringing sacrifices, and in this Mishna he relates what is done with the profits accruing from such sales. R. Aqiba, however, who would not permit of selling the things mentioned for profit, declares that the money for the altar is taken directly from the balance left over in the treasury; and R. Hanina holds, that the balance of the money drawn is used for the service-utensils.

MISHNA *e.* ¹ The remainder of the incense refers to the amount of incense left over at the end of the year. A quantity of incense was prepared for the whole year, and every priest would use a handful at a time; but, as handfuls are not all alike, no fixed amount could be prepared: hence the remainder.

² Compensation for labor must not be made with sacrificed articles, for the sanctification cannot be transferred to labor that had already been performed; it can be transferred, however, to actual money, and in consequence the subterfuge for the payment of the preparers of the incense was resorted to as stated in the Mishna.

MISHNA *f.* * R. Aqiba and Ben Azai differ in this Mishna as to whether sanctification can be transferred to labor or not. R. Aqiba holds, that labor can be compensated with sanctified articles; but Ben Azai holds, that it cannot. According to Maimonides the Halakha prevails according to Ben Azai, because in the previous Mishna there is a concurrent opinion.

sation of the preparers must first be separated from such possessions, then the sanctification of those possessions transferred to money; then give the separated things to the preparers for compensation; and, finally, buy them back from them with money of the new revenue."

(*g*) If one devote his possessions, and there are among them cattle fit for the altar, male or female, the male, according to R. Eliezer, shall be sold for whole-offerings and the female for peace-offerings to such as are in need of them; and the proceeds of such sale, together with the other possessions, shall be devoted to the treasury for the maintenance of the Temple. R. Jehoshua says: "The male are sacrificed as whole-offerings, the female are sold to such as are in need of peace-offerings, and the proceeds used for the sacrifice of whole-offerings. The balance of the possessions is devoted to the maintenance of the Temple."¹ Said R. Aqiba: "The opinion of R. Eliezer seems to me to be more proper than that of R. Jehoshua; for R. Eliezer has an even procedure, whereas R. Jehoshua divides it."² R. Papeos says: "I have heard that it is done according to both teachers; viz.: According to R. Eliezer if the owner who devotes his possessions explicitly mentions his cattle, and according to R. Jehoshua if he silently includes his cattle in his possessions."³

MISHNA *g*. ¹The point of difference between R. Eliezer and R. Jehoshua is this: The former holds, that if a man devoted all his possessions, his intention was to devote them for the maintenance of the Temple only; while the latter holds, that the intention was to devote the possessions according to their adaptability. Hence if, among the possessions, there were objects adapted for the altar, they should be devoted to the altar; if, however, these were female cattle, which could not be brought as a whole-offering, nor, by reason of the absence of the owner, even as a peace-offering, such cattle should be sold and the proceeds applied to the purchase of whole-offerings.

²R. Aqiba holds with R. Eliezer, because, in his opinion, a man who devotes all his possessions does so with but a single intention; and this is what he terms an even procedure.

³R. Papeos said, that if the man devoted all his possessions to the honor of the Lord, R. Jehoshua would be correct, for his possessions can be used in honor of the Lord in various ways; but if he explicitly stated that he devoted his possessions for the maintenance of the Temple, R. Eliezer's opinion is proper.

(*h*) If one devote his possessions, and there are among them things fit for the altar, such as wines, oils, and birds, says R. Eliezer, the latter things should be sold to such as need offerings of these kinds, and the proceeds used for the sacrificing of whole-offerings; the balance of the possessions goes toward the maintenance of the Temple.*

(*i*) Every thirty days the prices paid by the treasury are determined. If one contract to furnish flour at the rate of four Saah (for one Sela), and the price is raised to three, he must nevertheless furnish the same at four Saah (for one Sela).¹ If he contract at the rate of three and the price fall to four, he must in that case furnish four, for the Sanctuary always has that prerogative. If the flour become wormy, it is the loss of the contractor; and if the wine become sour it is also his loss, and he does not receive the money for his wares until the purchased wares have been favorably accepted as sacrifices at the altar.²

MISHNA *h*. * The reason that R. Eliezer decrees that wines, oils, and birds should be sold, and whole-offerings brought in their stead, is because the articles mentioned cannot be redeemed with money.

MISHNA *i*. ¹ Every month, bids were received from contractors for the furnishing of the necessities for the Temple and altar for one month. The lowest bidder received the contract, and it was distinctly understood that, even if prices were raised during the month, his prices were to remain as originally contracted for.

² The Palestinian Talmud states, that the money due the contractors was paid them by the priests immediately upon the latter receiving the wares, for the priests were very careful, and never allowed flour to become wormy or wine to spoil.

CHAPTER V.

MISHNA: (*a*) The following were the heads of offices¹ in the Sanctuary: Johanan, son of Pinchas, keeper of the seals²; A'hia, (superintendent) of drink-offerings; Mathia, son of Samuel, (superintendent) of the casting of lots³; Petha'hia, (superintendent) of bird-offerings.⁴ Petha'hia is Mordecai, but why do they call him Petha'hia? Because he used to expound and interpret scriptures, and was master of seventy languages. Ben A'hia was (superintendent) of the cures of priests suffering with abdominal diseases.⁵ Ne'huniah was master of the well.⁶

CHAPTER V.

MISHNA *a*. ¹The list of officers enumerated by the Mishna were not all officers at the same time, but served at different periods, and the Mishna merely names the most important and pious among them.

² See Mishna *d*, same chapter.

³ Lots were cast for the determination of the turn of the priests for each particular service. The superintendent would keep a record of such as were eligible for duty, and then cast lots for the priest who was to serve.

⁴ Petha'hia was superintendent-in-chief of all those who had charge of the bird-offerings; these bird-offerings were brought by women who had recently been confined; and there were so many of them that a record had to be kept, who came first, whose time was nearly expired, and how much was to be charged for the offerings. Besides this, it often happened that the birds became mixed and required great wisdom to separate them and recognize to whom every bird belonged, as the changing of the birds would make the offering invalid. (See commentary of Israel Lipshuetz.)

⁵ Such diseases among priests were of very frequent occurrence and inevitable; for they were dressed during services very lightly, being allowed to wear only four articles of apparel; viz., a linen shirt, linen pantaloons, a linen cap, and a girdle. Besides, they had to walk barefoot on the marble floor, and were constantly eating meat of the sacrifices, which had to be eaten during a specified time. Hence

Gebini was herald.⁷ Ben Gabhar was turnkey of the gates.⁸ Ben Bebai was master of the temple-guard.⁹ Ben Arzah was master of the kettledrums (which were beaten as a signal for the Levites to commence their chant). Higos, son of Levi, was (leader) of the singing. The family of Garmo (superintended) the making of the showbreads.¹⁰ The family of Abtinos (superintended) the preparing of the incense.¹¹ Elazar (superintended) the making of the curtains.¹² Pinchas superintended the vestments.¹³

they needed many attendants, in order that, as soon as one priest took sick, a substitute was brought in his place and he was removed to the sick ward. Ben A'hia was the superintendent-in-chief of these matters.

⁶ On account of the immense influx of people into Jerusalem three times a year, the wells for the supply of water, both on the roads and in the city, had to be looked after, and Ne'huniah had charge of this.

⁷ The commencement of all services had to be heralded, and many heralds were employed. Gebini was herald-in-chief, and his duty was mainly to call out in the morning: "Priests, to your duties! Levites, to your chants! Israelites, to your places!" He had so powerful a voice that it could be heard eight miles.

⁸ He had charge of the keys of the gates and of the men who stood at the gates.

⁹ The gates of the Temple had to be guarded day and night, even in times of peace. To properly care for the guard and to punish all negligence in guarding the gates was the duty of Ben Babai.

¹⁰ For showbreads, twelve loaves had to be made every week, and had to be made so that they would keep fresh the entire week. For further details, see Tract Tamid. The family of Garmo had charge of this work for generations.

¹¹ The incense, which was used twice a day, had to be prepared with especial skill from many different spices, and in proper proportions. Further details are also to be found in Tract Tamid. The family Abtinos had charge of this branch for many generations.

¹² The curtains, which were frequently changed, had to be inspected as to workmanship, cleanliness, etc., and this duty devolved upon Elazar.

¹³ The vestments of the priests had to be carefully examined as to cleanliness, and had to be sent out to be laundered regularly. Many rooms in the Temple were devoted to those vestments, and Pinchas had charge of them all.

Much has been said as to the character of the men enumerated in

(b) No less than three treasurers and seven chamberlains must be appointed,* and no less than two officers were put in charge of public moneys. Exceptions were made in the cases of Ben A'hia, superintendent of the cures of the sick, and Elazar, superintendent of the preparation of curtains, because they were unanimously elected by the community.

(c) There were four seals in the Sanctuary, inscribed with the words Egel (calf), Sachar (ram), Gdi (kid), and 'Houte (sinner, meaning here one covered with sores). Ben Azai says, that there were five (seals), and the inscriptions were in Aramaic, meaning: calf, ram, kid, poor sinner (one afflicted with sores), and rich sinner (one afflicted with sores). The one inscribed with "calf" was used for drink-offerings brought with offerings of the herds, large or small, male or female; the one inscribed with "kid" was used for drink-offerings brought with offerings of the flocks, large or small, male or female, with the exception of rams; the one inscribed with "ram" served for drink-offerings brought only with rams; the seal inscribed with "sinner" served for drink-offerings brought with the three cattle-offerings of those afflicted with sores.*

the Mishna, whether they were priests themselves, Levites, or ordinary Israelites. For particularized information regarding this subject, we would refer to "Die Priester und der Cultus," by Dr. Adolf Büchler, Vienna, 1895. It is estimated that the priests in Jerusalem approached the enormous number of twenty thousand. Besides, there were numbers of Levites.

MISHNA *b*. * The officers of the Temple ranked as follows: The king, the high priest, the assistant high priest (Sagan), two catholicoses,† seven chamberlains (Amarkolins), three treasurers (Gisbars), and, finally, many smaller officials; *e.g.*, inspectors, officers of the guard, etc. (See "Die Priester und der Cultus," pp. 90-117.) The duties of each officer are described in Tamid and Yuma.

MISHNA *c*. * With every sacrifice that was offered, wine and meal

† "Catholicos" is here used in the sense of patriarch or head, which term still retains a similar meaning in the "Ecclesiastical History of the Armenian Church," deriving its original meaning from the Greek καθολικός—general or universal. In the latter sense it was adopted at a very early period by the Christian church. In the exclusive sense of denoting the church as the "depository of universally received doctrine in contrast with heretical sects" it is still improperly retained by the Roman Catholic Church. I am surprised to find no mention of the officers of this name and function under the appropriate title anywhere in the "Encyc. Brit."

(*d*) One who desired to bring drink-offerings, for instance, went to Johanan, who was keeper of the seals, paid his money, and received a seal; he then went to A'hia, who had charge of the drink-offerings, gave him the seal, and received the drink-offering. In the evening the two officers came together, when A'hia turned over the seal and received instead the money. If there was too much money, it belonged to the Sanctuary; if too little, Johanan had to supply the deficit: for the sanctuary had that prerogative.

(*e*) One who lost his seal had to wait until evening. If there was a surplus sufficient to cover the seal,* he was given the drink-offering for that amount; otherwise, he did not receive it. The date of the day was on the seal to prevent fraud.

(*f*) There were two chambers in the sanctuary. One was

were brought in accordance with the biblical commandment to that effect, and in quantities prescribed by the ordinances. As the drink and meal offerings were bought in the Temple, the person bringing the sacrifice would receive a seal from the priest which he would exchange for the necessary quantity of wine and meal. The drink-offerings with goats and sheep were the same, hence the seal inscribed "kid" served for both. One who brought a ram, however, which required a larger quantity of wine and meal, would receive a separate seal, inscribed "ram." As for offerings of the herds, they were all equal, small or large, male or female; hence the seal inscribed "calf" sufficed for all. Those who were afflicted with sores, and had to bring two rams and one sheep, received a seal inscribed "sin" (which had the hidden purpose of signifying that sores were the consequence of sin). The poor sinners, who had only to bring one sheep, two doves, and one-tenth of an ephah of meal and one lug of oil, without any wine, were, according to the opinion of the sages, not in need of a seal, because the seal inscribed "kid," which they received when bringing the sheep, was sufficient for the other purpose. Ben Azai, however, says, that another seal was necessary, and that an extra seal marked "poor sinner" was given, which was intended as a sign that no wine was necessary. The tradition of Ben Azai, that the seals were inscribed in Aramaic characters, is also true, because, prior to the introduction of the Greek language, all the writing in the Temple was done in Aramaic. (See the mentioned work of Büchler.)

MISHNA *e*. * Providing only the surplus amounted to exactly the amount paid for the seal.

called chamber of the silent, the other chamber of utensils. In the former, devout men secretly gave charitable gifts, and the poor of good family received there secretly their sustenance. In the other chamber, every one who desired to offer a utensil voluntarily, laid it down. Every thirty days the treasurers opened the chamber, and every utensil found to be fit for the maintenance of the Temple was preserved, while the others were sold and the proceeds went to the treasury for the maintenance of the Temple.*

MISHNA *f.* * In the Palestinian Talmud in this chapter (*Halakha* 15), many legends are related illustrating this Mishna.

CHAPTER VI.

MISHNA: (*a*) There were thirteen curved chests¹ and thirteen tables in the Sanctuary, and thirteen prostrations took place in the Sanctuary. The family of R. Gamaliel and of R. Hananiah, chief of the priests, made fourteen prostrations; this extra prostration was made towards the wood-chamber,² because, according to an ancestral tradition, the ark was hidden there.

(*b*) Once a priest¹ was engaged there, and he noticed that one of the paving-stones on one place appeared different from the others. He went out to tell others of it; but he had not yet finished speaking, when he gave up the ghost; thereby it was known to a certainty that the ark of the covenant² was hidden there.

(*c*) In what direction were the prostrations made? Four towards the north, four towards the south, three towards the east,

CHAPTER VI.

MISHNA *a*. ¹ The thirteen chests were used as explained in Mishna *e*, and they were shaped like horns, so that a hand could not be inserted from the top. This Mishna places the number of everything at thirteen (on account of the thirteen kinds of mercy attributed to God). R. Ishmael composed the thirteen rules with which the Law is expounded.

² The location of the wood-chamber can be determined in Tract Midoth.

MISHNA *b*. ¹ The priest was a man of blemish (deformed), and could not take part in the sacrifices, but was allowed to select and peel the wood used at the altar.

² The ark was hidden during the existence of the first Temple in order to save it from the Babylonians, after all hope had been abandoned, and its hiding-place was underground. The priests who subsequently took charge probably noticed some sign made by the former generation when the ark was hidden, and this particular priest died as a consequence of his attempt to reveal the secret.

and two towards the occident; *i.e.*, towards the thirteen gates.¹ The southern gates were near a corner of the western. These were: The upper gate, the fire gate, the firstling gate, and the water gate. Why is it called water gate? Because a glass of water was carried through it for the sprinkling of the altar on the Feast of Booths. R. Eliezer son of Jacob says: At that gate the waters (flowing from the Holy of Holies) commence to flow rapidly downwards, until they again flow out under the threshold of the Temple. Opposite there were the northern gates, near the other corner of the western. These were: The door of Jekhaniah, the gate of sacrifice, the women's gate, and the music-gate; and why is the first one called the gate of Jekhaniah? Because Jekhaniah went through it, when he went into exile. In the east was the gate Nikanur, which also had two small doors,² one to the right and the other to the left; lastly, there were two in the west, which were nameless.

(*d*) Thirteen tables were in the Sanctuary: Eight marble ones in the slaughter-house, on which the entrails were washed. Two to the west of the altar-sheep, one marble and one silver: on the marble one the sacrificial pieces were placed, and on the silver table the utensils were placed. Two in the corridor on the inside of the Temple entrance, a marble table and a golden one: on the marble one the showbreads were placed at the time they were brought in, and on the golden one when they were taken out; because the principle is, that the veneration of the

MISHNA *c.* ¹That there were thirteen gates in the Temple is vouched for by Abba Jose ben Johanan; but the sages declare, that there were only seven gates and that the thirteen prostrations were made in the direction of the twelve breaches made by the Greeks in the walls of the Temple at the time of the Maccabees, and towards the altar; the twelve breaches had been repaired, and each prostration was a mark of gratitude for the good fortune. From the fact, however, that the Mishna cites nine of the gates by their names and describes their location, it seems that Abba Jose ben Johanan was correct, and had his knowledge of the matter from tradition.

²Concerning the gate Nikanur, it is said that the two doors were made in the gate proper, because the gates were very heavy and it required a number of priests and Levites to open them (as explained in Tract Tamid). Hence, in order to facilitate entrance and egress, the two doors were added.

sacred must be heightened and not lessened.* Lastly, there was one golden table in the Temple itself, upon which the show-breads were constantly lying.

(e) Thirteen curved chests were in the Sanctuary.¹ On them was written: *Old shekalim*, *new shekalim*, bird-offerings, doves for whole-offerings, wood, incense, gold for the cover of the Holy of Holies. Six were for donations in general.² The term *new shekalim* is used for those paid annually. *Old shekalim* were those which were paid by men who had failed to pay them in the year when they were due, and paid them in the following year. "In those marked 'bird-offerings,' the money for turtle-doves was deposited; in those marked 'doves,' money for young doves was deposited: but they were all whole-offerings." So says R. Jehudah. The sages say: "In the former, money for both sin-offerings and whole-offerings was placed, and in the latter only for whole-offerings."³

MISHNA d. * Because the showbreads were lying on a golden table in the Temple, they were not to be placed on marble tables when taken out.

MISHNA e. ¹ When a man paid his half-shekel in Jerusalem, he would go to the Temple and throw his half-shekel into the chest marked *new shekalim*. Into the chest marked *old shekalim*, such as had not given pledges for the payment of the Shekalim, and came voluntarily to pay same, would throw their half-shekel. One who wished to donate money for specific purposes, e.g., for bird-offerings, etc., would deposit the money in the respectively marked chests.

² Only one of these chests was for donations in general. The other five were marked as follows: One, "For the remainder of a sin-offering," i.e., money left over from a sum originally intended for the purchase of a sin-offering, was thrown into this chest and was used only for sin-offerings; the second, "for the remainder of guilt-offerings"; the third, "for the remainder of bird-offerings of women who had been confined and of persons suffering from venereal diseases"; the fourth, "for the remainder of Nazarite-offerings"; and the fifth, "for the remainder of offerings of those afflicted with sores." If any one had money left over from such offerings, he deposited it in the respectively marked cases. The contents of the chest marked "for donations in general" were used for the maintenance of the Temple. (Maimonides.)

³ R. Jehudah means to say, that a man who throws money into the chest marked "for bird-offerings" intends that his offerings

(*f*) If one vow, "I will furnish wood for the altar," he must not furnish less than two cords. If one vow (to furnish) incense, he must not furnish less than a handful. If one vow (to furnish) gold coin, he must not furnish less than a Dinar.¹ Six (chests) were for voluntary offerings. What was done with these? Whole-offerings were bought for these, the meat of which was sacrificed to God, but the hides belonged to the priests.² The following explanation was made by Jehoiada the high priest, of the expression [Lev. v. 19]: "It is a trespass-offering; he hath, in trespassing, trespassed against the Lord": The rule is: With everything coming in under the name of sin or guilt offering, whole-offerings are bought, the meat of which is offered up to God and the hides of which belong to the priests; hence the two expressions: A guilt-offering for God and a guilt-offering for the priests, as it is written [II Kings xii. 16]: "The money for trespass-offerings and the money for sin-offerings was not brought into the house of the Lord: it belonged to the priests."

should be for the altar only, and not for the benefit of those who eat sacrifices, while the sages differ with him, as stated in the Mishna.

MISHNA *f*. ¹ In the preceding Mishna the remainder of offerings is treated of, and it made no difference how little the remainder was, it could be thrown into the chest. In this Mishna, the case of a man who vows to bring an offering is spoken of, and a minimum value is placed.

² Incidentally we are told that the meat of the sacrifices belonged to the Divinity, while the hides belonged to the priests; and what immense sums were realized from the sale of such hides may be gleaned from the mentioned "Priester und Cultus," by Büchler.

CHAPTER VII.

MISHNA: (a) If money is found between the chest marked "Shekalim" and that marked "voluntary offerings," it belongs to the chest marked "Shekalim" if it lies nearer to the same, and to the one marked "voluntary offerings" if it be nearer *that*. So also does it belong to the voluntary offerings if it be found midway between the two chests. Money found lying between the chests marked "wood" and "incense" belongs, if it be nearer the former, to the former; if nearer the latter to the latter, and also to the latter if found midway between the two. Money found lying between the chest marked "bird-offerings" and the one marked "doves" for whole-offerings belongs to the former if it be nearer the former; and if nearer the latter to the latter, and also to the latter if midway between the two. Money found between ordinary moneys and the moneys of the second tithes belongs, if nearer the former to the former; if nearer the latter to the latter, and also to the latter if found midway between the two.* The rule is: One must be guided by the proximity, even in the case of the less important; but in the event of equidistance, (one must be guided) by the greater importance (of the moneys).

(b) Money found (in Jerusalem) on the place of the cattle-dealers is regarded as second tithe.¹ Money found on the Tem-

CHAPTER VII.

MISHNA *a*. * There are different degrees of sanctification attached to the several kinds of offerings, some greater and some lesser. In order not to appropriate money belonging to an offering of a greater degree of sanctification to one of a lesser degree, it was decided that proximity of the stray coins should govern the disposition of such money. Where, however, the money was equidistant, it was appropriated to the offerings of a greater degree of sanctification, and the degree may be determined from the Mishna itself.

MISHNA *b*. ¹ Because it was rare for priests to visit the cattle-market, but the Israelites who at any time came to buy cattle for

ple-mount is ordinary.² Other money found in Jerusalem generally, during the festivals, is regarded as second tithe; at other times of the year as ordinary.³

(c) Meat found in the outer court (of the Temple) is considered whole-offering if in complete joints; if cut in pieces it is sin-offering.¹ Meat found in the city is considered peace-offering.² All such meat must be laid aside for putrefaction, and then be burned in the crematory. Meat found anywhere else in the land is prohibited (to be used) as carrion, if found in whole joints; if found cut in pieces, it may be eaten; and during the festivals, when a great deal of meat is on hand, even whole joints may be eaten.³

(d) Cattle found all the way from Jerusalem to Migdal Eder, and in the same vicinity in all directions, are considered, if male, as whole-offerings, and if female as peace-offerings. R. Jehudah

sacrifices generally bought the same with the money exchanged for their second tithes.

² Money found on the Temple-mount was presumably dropped there by priests. It never occurred that a priest should carry money belonging to the treasury about with him; for even if he drew some money for the purpose of purchasing necessities, he immediately turned it over to the vender. Hence, any money which a priest may have lost was his own, and ordinary.

³ During the festivals, when all the Israelites congregated in Jerusalem, they brought money only to expend for their second tithes, hence money found in any place is considered as second tithes.

MISHNA c. ¹ Because whole-offerings were sacrificed in complete joints, but sin-offerings, which were eaten by the priests, were usually cut in pieces. Neither must be eaten, because it might be that the latter had been left over from the preceding day and should be burned; but the distinction is made simply in case one had eaten of the meat that was cut up. If he had eaten of the complete joint, he was certainly guilty, but if he had eaten of the cut meat, it could not be said positively that he was guilty.

² This must also not be eaten, because it may have lain more than two days and a night; but if it is eaten, no one is guilty.

³ Incidentally the rule is laid down as to meat found anywhere in Palestine. If the meat is found in whole joints, it is presumed to be carrion left for dogs, and must not be eaten. During the festivals, when meat is plentiful, it is presumed to be slaughtered meat, and may be eaten.

says: "If they are fit for Passover-offerings they may be used for such purpose, providing Passover is not more than thirty days off." *

(e) In former days, the finder of such cattle was pledged until he brought the drink-offerings belonging to such sacrifices; every finder, however, letting such cattle stand and going on his way, the high court decreed, that the costs of the drink-offerings belonging thereto be defrayed out of the public money.

(f) R. Simeon says: Seven decrees were promulgated by that court, and the latter was one of them. Further: If a non-Israelite send whole-offerings with the necessary drink-offerings from over the sea, they are offered up; but if sent without the necessary drink-offerings, the costs of the latter are defrayed from public money. If, again, a proselyte died and left offerings, the drink-offerings, if also left by him, are offered up with the others; if not left, the costs of same are defrayed out of public money. It was also a decree of the court, that in the event of a high priest dying, the necessary meat-offering [Leviticus vi. 13] should be paid for out of the public treasury. R. Jehudah, however, declared, that this should be done at the expense of the heirs. In both cases a tenth of an ephah should be offered.

(g) Further, that the priests may (at the sacrificial meals) make use of the salt and the wood (from the sanctuary); that the priests do not commit a breach of trust when misusing the ashes of the red heifer¹; lastly, that the public treasury reimburse

MISHNA *d.* * R. Jehudah states, that if the animal found was a yearling and a male, it is considered a Passover-offering, but may be sacrificed only as a peace-offering, because a Passover-offering must be intended for a stipulated number of persons. (See Exod. xii. 4.) The sages, however, say, that on account of the number of whole-offerings which were brought at the time, the animal found must not be eaten, for fear lest it be intended for a whole-offering and a grave offence be committed. Hence it should be sacrificed as a whole-offering only.

MISHNA *g.* ¹ It was not allowed to appropriate any part of a sacrifice designated for some special use for any other purpose. If this was done, however, (unintentionally,) it was considered a trespass, and a trespass-offering had to be sacrificed as expiation for the sin. The ashes of the red heifer did not come under the above ruling

for paid bird-offerings that had become unfit.² R. Jose, however, says: "He who contracts for the furnishing of the bird-offerings must reimburse for the spoilt."

previously (for reason, see Siphri), but on account of the frequent misuse of those ashes a decree was promulgated placing them under the same ruling as other parts of sacrifices, which were not to be misappropriated. Subsequently, this Mishna teaches that, there being no further necessity for the precautionary measure, the decree was reversed and the ashes restored to their former insignificance. This was included among the seven decrees.

² A special decree had to be promulgated to cover this case. Had this not been done, contractors would have refused to furnish birds for offerings, because there were very many birds used, and it was burdensome to properly care for them. Still, R. Jose does not agree to this, claiming that the contractor might use it for other purposes and thus save the Sanctuary the loss. According to Maimonides, the *Haikha* prevails according to R. Jose.

CHAPTER VIII.

MISHNA: (*a*) All spittle¹ to be found in Jerusalem is considered clean, except such as is found at the upper market (for this place was secluded and those afflicted with venereal diseases were in the habit of going there). Such is the teaching of R. Meir. The sages say: In the middle of the street it is at ordinary times unclean, and at the sides of the streets, clean. During the festivals, spittle found in the middle of the street is clean; at the sides it is unclean, because such as are unclean on account of their minority usually walk at the sides of the street.

(*b*) All utensils found on the way towards the plunge-bath, in Jerusalem, are unclean; those found on the way from the plunge-bath are clean: for they were not carried down to the plunge-bath the same way that these were carried up from the plunge-bath. So teaches R. Meir. R. Jose says: "All are clean, with the exception of such baskets, spades, and pickaxes as are used for the bones of the dead." *

CHAPTER VIII.

MISHNA *a*. ¹ Concerning this spittle, see Leviticus xv. 8. It being impossible that, of all the people congregated in Jerusalem at the times of the festivals, there should not be some who had running issues and whose spittle was unclean, regulations were made where such men were to walk and where not. These regulations are cited by the Mishna. R. Meir said, that the upper market was the place designated for them, but the sages differ with him, and say, that the regulation was for the healthy men to walk in the middle of the street and the unclean at the sides during the festivals; but the whole year, the order was reversed. It is therefore self-evident, that, wherever the unclean walk, one is liable to contract uncleanness.

MISHNA *b*. * This Mishna is explained by Maimonides and translated by Yost in a different manner than we have rendered it; namely: "All utensils found wrong side up on the way to the plunge-bath are unclean, and those found right side up are clean." This

(c) If a butchering-knife be found on the fourteenth day of Nissan, a Passover-offering may be slaughtered with it forthwith. If it be found on the thirteenth, it must be again submerged.* A severing-knife must be submerged both if found on the thirteenth or fourteenth. If the fourteenth, however, fall on a Sabbath, it may be used for slaughtering forthwith; so also if it be found on the fifteenth: if it be found together with a butchering-knife, it is treated just like the latter.

(d) If a curtain in the Sanctuary become defiled through some minor uncleanness,¹ it is submerged on the inside of the outer court, and may be put back in its place; if it become defiled through a principal uncleanness, it must be submerged on the outside and then stretched on the rampart, because sunset must be awaited. At the time it is submerged for the first time (when new), it should be spread out on the roof of the gallery, in order that the people may see the beauty of the work.

(e) R. Simeon, son of Gamaliel, says in the name of R. Simon, son of the assistant high priest, that the curtain was one

explanation is very complicated, and not in accordance with the literal text and other sources of explanation. Hence we simply translated the literal text and deem it correct. As for the last three articles, they are always unclean, on account of being used for bones of the dead; hence, in our opinion, they were never submerged. (See also commentary of Israel Lipshuetz, who also interprets it according to our explanation.)

MISHNA c. * A butchering-knife, being in constant use, is always considered clean, and hence there is no necessity of submerging it. If, however, it be found on the thirteenth, when there is still one day's time, it should be submerged for the sake of precaution. A severing-knife, however, is considered the same as any other vessel, and is treated accordingly.

MISHNA d. ¹ For the explanation of the term "minor uncleanness," as used in this Mishna, it is necessary to state the different degrees of uncleanness, which are as follows: A corpse is called "the grandparent of uncleanness." One who touches a corpse becomes "a father of uncleanness"; anything touching the latter is, in turn, "a child of (or first of) uncleanness"; anything touched by this latter is a "second of uncleanness"; and so forth, "a third" and "a fourth." (See Tract Taharoth.) In this Mishna a minor uncleanness refers to a first of uncleanness, and a principal uncleanness to a father of uncleanness.

span thick, woven on seventy-two warp-cords, each cord twisted out of twenty threads; it was forty ells long and twenty ells wide, and made (worth) of eighty-two myriads (Dinars).^{*} Two such curtains were made yearly: three hundred priests were required to submerge it.

(*f*) If meat of the Holy of Holies^{*} became defiled, be it through a minor or a principal uncleanness, in the corridor or on the outside, according to the school of Shamai it must all be burnt in the court (in a place appointed for that purpose), except such as had been defiled by a principal uncleanness on the outside (of the court); according to the school of Hillel, everything is burnt on the outside except such as had been defiled by a minor uncleanness on the inside.

(*g*) R. Eliezer says: "Anything that has become defiled through a principal uncleanness, on the outside or on the inside, is burnt on the outside; anything that has become defiled through a minor uncleanness, either on the inside or the outside, must be burnt on the inside." R. Aqiba says: "In the place where a thing became defiled, there must it also be burnt."

(*h*) The joints of the daily sacrifice were laid down underneath the half of the altar-stairs on the westerly (according to others on the easterly) side; those of the additional offerings on the easterly (others say on the westerly) side. The sacrifices of the new moon were placed above the railing (others say beneath) on the altar.¹ The payment of Shekalim was only obligatory during the time that the Temple stood; the tithes from grain, cattle, and the deliverance of the firstlings were in force during the existence of the Temple and even after the Temple.²—If

MISHNA *e*. ^{*} The Palestinian Talmud asserts, that the amount of the cost of and the number of priests required to submerge the curtain is somewhat exaggerated; but, according to Dr. Büchler's "Priester und Cultus," the number of priests is not an exaggeration; and as for the cost, if the smallest existing coin be used for calculation (as in former times the sou in France, so also was the myriad mentioned in the Mishna), not even the sum will be exaggerated.

MISHNA *f*. ^{*} For instance, the meat of the sacrifice mentioned in Leviticus vii. 6.

MISHNA *h*. ¹ This will be explained in Tract Midoth.

² Because the Levites received their sustenance from this source, and having inherited no land from their ancestors, they were sup-

one sanctify Shekalim or firstlings, they are considered sanctified. R. Simeon says: "If one say, firstlings shall be holy, they are not sanctified (because no Temple exists)."

ported even after the destruction of the Temple by the same means. The details will be found in Tracts Becharath, Maasroth, etc.

APPENDIX TO CHAPTER VI., MISHNA *a*.

FROM the teaching of this Mishna, we may conclude that the number system of Pythagoras was known and prevailed in the times of the Sages of the Mishna, and accordingly the number 13 was deemed inauspicious even in the earliest days.

Therefore many religious ceremonies were established with the express view of convincing the people of the absurdity of their belief.

It also seems probable that the Sages themselves entertained the superstition, and that they adopted the number 13 in the religious ceremonies as a cure for the mischief believed to have been produced by the inauspicious number.

TRACT ROSH HASHANA
(NEW YEAR).



INTRODUCTION TO TRACT ROSH HA-SHANA (NEW YEAR'S DAY).

NOTWITHSTANDING the fact that in the history of every nation, especially such as has ever attained to an established form of government, the calendar is a matter of great importance, the Scriptures do not in any manner treat of the Jewish calendar. There cannot even be found a fixed time whence the commencement of the year should be reckoned, although there is this passage in Exodus (xii. 2): "This month shall be unto you the chief of months: the first shall it be unto you of the months of the year." Doubtless this may be assumed to point to the month of Nissan (about April), as not only the most important month, but also as the beginning of the year.

In another passage (Exod. xxiii. 16), however, we find it written: "And the feast of ingathering (Tabernacles), at the conclusion of the year." This would be a palpable contradiction to the previous passage, were it not for the fact that the words "*Betze'th Hashana*" (rendered as "at the conclusion of the year") in the quoted passage can be, with perfect accuracy, translated "during the year." While such a translation would clear away all doubt as to Nissan being the beginning of the year, it could under no circumstances be applied to the Feast of Tabernacles, which is neither "at the conclusion" of the year nor "during the year" (in the sense "when the year has advanced"), if the beginning of the year be Tishri (about September). Hence the passage should be translated: "And the feast of the ingathering, which had been completed at the conclusion of the year"; *i.e.*, in the months preceding the month of Tishri.

In the face of these contradictory terms, we must revert to historical facts which would support one or the other of the above assertions, and we find, that not only the Egyptian rulers, but also the Jewish kings since the time of Solomon, counted the beginning of the year of their accession from the month of

Nissan, while other Eastern potentates, such as the Armenian and Chaldean kings, counted the commencement of their year of accession from Tishri.

It is not certain whether the Israelites, after their conquest of Canaan, computed their calendar in conformity with that of the country whence they came or with that of the country they had conquered; but it is plain that in the Mishnaic period, or after the erection of the second Temple, they counted the beginning of the year from Tishri. It may be, however, that their kings, following the example of their predecessors, commenced counting the year of their accession from Nissan, and in all civil contracts and state documents, according to the existing custom, used dates to agree with Nissan as the first month of the year.

On the other hand, the priestly tithes, during the days of the erection of the second Temple, were payable in Elul (about August), which was considered the expiring season of the year, in order to prevent the confusion which might arise from mixing one year's tithes with those of the other. The priestly tithing of fruits was, however, delayed until Shebhat (about February), the time when the fruits had already matured on the trees, in order that the various tithes should not be confused and to prevent the priests and Levites from unduly interfering with the affairs of the people.

The prehistoric Mishna, which always formed the law, in conformity with the existing custom, and not *vice versa*,* found four different New Year's days in four different months, and, with the object in view of making the custom uniform in all Jewish communities, taught its adherents to observe four distinct New Year's days, at the beginning of the four respective months in which certain duties were accomplished. Thus the text of the opening Mishna of this tract, prior to its revision by Rabbi Jehudah Hanassi, read as follows: "There are four different New Year's days; viz., the first day of Nissan, the first of Elul, the first of Tishri, and the first of Shebhat." The different purposes for which these days were established as New Year's days were well known at that time, and it was therefore deemed unnecessary to specify them. At the time

* Facts corroborating this statement will be found in our periodical *Bakay*, Vol. II., p. 20 *et seq.*

of the new edition of the Mishna, by Rabbi Jehudah Hanassi (the Prince), when the Temple was out of existence, and consequently tithes were no more biblically obligatory (the authority of the priests having been abrogated and reverted to the house of David, the great-grandfather of the editor), the latter referring to the first day of Nissan and the first day of Elul as New Year's days, added, by way of commentary, the words, "for kings and cattle-tithe."

He also cited the opinions of R. Eliezer and R. Simeon, that the New Year's Day for cattle-tithe should not be celebrated separately, but on the general New Year's Day; viz., on the first day of Tishri, as under the then existing circumstances there was no necessity to guard against the confusion of tithes accruing from one year to the other. From this it may be concluded that R. Jehudah Hanassi, in citing the above opinions, alluded to them as being in conformity with his own opinion. To that end he also cites the opinions of the schools of Shamai and Hillel respectively.

From the statement in the Mishna to the effect that "there are four periods in each year on which the world is judged," it appears that in the Mishnaic period the New Year's day was considered a day of repentance; and since the principal features of repentance are devotion to God and prayers for forgiveness of sin, Rabbi states, in the Mishna, that devotion is the only requirement during the days of penitence, *i.e.*, the days between New Year's Day and the Day of Atonement. The legend relating that on the New Year's day books (recording the future of each person) were opened was yet unknown in Rabbi's time.

The story told by R. Kruspedai in the name of R. Johanan, that "on New Year's Day books are opened," etc., is taken from the Boraitha which teaches: "Three books are opened on the day of judgment." This Boraitha, however, does not refer to the New Year's day, but to the day of final resurrection, as explained by Rashi, and that R. Kruspedai quotes his story in the name of R. Johanan proves nothing; for in many instances where teachers were desirous of adding weight to their opinions, they would quote some great teacher as their authority. R. Johanan himself permitted this method.

After Rabbi Jehudah Hanassi had completed the proper Mishnaic arrangement regarding the number of New Year's days,

making the principal one "the Day of Memorial" (the first of Tishri); after treating upon the laws governing the sounding of the cornet in an exceedingly brief manner—he dwells upon the custom in vogue at the Temple of covering the mouth of the cornet or horn with gold, and declares the duty of sounding the cornet properly discharged if a person passing by the house of worship can hear it.

He arranges the prayers accompanying this ceremony in a few words, and then dilates at great length upon the Mishnayoth treating of the lunar movements by which alone the Jews were guided in the arrangement of their calendar, upon the manner of receiving the testimony of witnesses, concerning the lunar movements, and upon the phases of the moon as used by Rabban Gamaliel. He then elaborates upon the tradition handed down to him from his ancestors (meaning thereby the undisputably correct regulations), and also upon the statutes ordained by R. Johanan ben Zakkai, enacting that the sages of each generation are the sole arbiters of all regulations and ordinances, and may themselves promulgate decrees even though the bases for such be not found in the Mosaic code.

He also confirms the right of the chief Beth Din (supreme court of law), but not of a lower Beth Din, of each respective period, alone to arrange the order of the holidays, on account of the already apparent discontent of the masses, who were bent upon taking the management of these subjects into their own hands.

Thus he dilates upon this feature with the minutest exactness and supports his assertions with the decision of his grandfather Rabban Gamaliel, as well as with the decisions of Rabbi Dosa ben Harkinas and Rabbi Jehoshua, to the effect that each generation has only to look for guidance to the Beth Din existing in its own time, and that the opinion rendered by such a Beth Din is as binding and decisive as that of Moses, even though it appear to be erroneous.

Such are the contents of this tract, certainly most important from an historical and archæological point of view. Proceed, then, and study!

SYNOPSIS OF SUBJECTS

OF

TRACT ROSH HASHANA*

CHAPTER I.

MISHNA I. The first Mishna ordains New Year's Days, viz.: For kings, for the cattle-tithe, for ordinary years, and for the planting of trees. A king who ascends the throne on the 29th of Adar must be considered to have reigned one year as soon as the first of Nissan comes. The Exodus from Egypt is reckoned from Nissan. When Aaron died Sihon was still living. He heard that Aaron was dead and that the clouds of glory had departed. The rule about Nissan only concerned the kings of Israel; but for the kings of other nations, they reckoned from Tishri. Cyrus was a most upright king, and the Hebrews reckoned his years as they did those of the kings of Israel. One is guilty of procrastination. Charity, tithes, the gleanings of the field, that which is forgotten to be gathered in the field, the produce of corners of the field.

One is culpable if he does not give forthwith that which he has vowed for charity. In the case of charity it must be given immediately, for the poor are always to be found. The Feast of Weeks falls on the fifth, sixth, or seventh of Sivan.

How the law against delay affects a woman. In which month is grain in the early stage of ripening? Only in the month of Nissan. It is also the New Year for leap-year and for giving the half-shekels. Congregational sacrifices brought on the first of Nissan should be purchased with the shekels raised for the New Year. He who lets a house to another for a year must count (the year) as twelve months from day to day; but if the lessee says (I rent this house) "for *this* year," even if the transaction takes place on the first of Adar, as soon as the first of Nissan arrives the year (of rental) has expired. The first of Tishri is the New Year for divine judgment. At the beginning of the year it is determined what shall be at the end of the year. The Supreme Court in Heaven does not enter into judgment until the Beth

* See introduction to synopsis of Tract Sabbath, Vol. I., p. xxix.

Din on earth proclaims the new moon. Israel enters for judgment first. If a king and a congregation have a lawsuit, the king enters first. From New Year's Day until the Day of Atonement, slaves used not to return to their (own) homes ; neither did they serve their masters, but they ate and drank and rejoiced, with the crown of freedom on their heads. R. Eliezer says, that the world was created in Tishri. R. Joshua says, that the world was created in Nissan. Says R. Joshua, God grants the righteous the fulfilment of the years of their life to the very month and day. Sarah, Rachel, and Hannah were visited on New Year's Day. Joseph was released from prison on New Year's Day. On New Year's Day the bondage of our fathers in Egypt ceased. The Jewish sages fix the time of the flood according to R. Eliezer, and the solstices according to R. Joshua ; but the sages of other nations fix the time of the flood also as R. Joshua does. Whoso vows to derive no benefit from his neighbor for a year must reckon (for the year) twelve months, from day to day ; but if he said "for this year," if he made the vow even on the twenty-ninth of Elul, as soon as the first of Tishri comes that year is complete. The New Year for giving tithes is for a tree from the time the fruits form ; for grain and olives, when they are one-third ripe ; and for herbs, when they are gathered. R. Aqiba picked the fruit of a citron-tree on the first of Shebhat and gave two tithes of them, . 1-20

MISHNA II. At four periods in each year the world is judged. All are judged on New Year's Day and the sentence is fixed on the Day of Atonement. R. Nathan holds man is judged at all times. God said : "Offer before Me the first sheaf of produce on Passover, so that the standing grain may be blessed unto you. Recite before Me on New Year's Day the Malkhiyth, that you proclaim Me King ; the Zikhronoth, that your remembrance may come before Me, for good, and how (shall this be done) ?" By the sounding of the cornet. Three circumstances cause a man to remember his sins. Four things avert the evil decree passed (by God) on man ; viz., charity, prayer, change of name, and improvement. Some add to these four a fifth—change of location. Three books are opened on New Year's Day : one for the entirely wicked, one for the wholly good, and one for the average class of people. The school of Hillel says : The most compassionate inclines (the scale of justice) to the side of mercy. Who are those who inspire their fellowmen with dread of them ? A leader of a community who causes the people to fear him over-much, without furthering thereby a high purpose. The legend how R. Joshua fell sick and R. Papa went to visit him. The Holy One, blessed be He, wrapped Himself, as does one who recites the prayers for a congregation, and pointing out to Moses the regular order of prayer, said to him : "Whenever Israel sins, let him pray to Me after this order, and I shall pardon him." Prayer is helpful for man before or after the decree has been pronounced. The legend of a certain family in Jerusalem whose members died at eighteen years of age. They came and informed R. Johanan ben Zakkai. The Creator sees all their hearts (at a glance) and (at once) understands all their works, . 20-28

MISHNA III. Messengers were sent out in the following six months : in Nissan, Abb, Elul, Tishri, Kislev, and in Adar. The legend of the king

(of Syria who had earlier) issued a decree forbidding the study of the Torah among the Israelites, or to circumcise their sons, and compelling them to desecrate their Sabbath. Judah b. Shamua and his friends cried aloud : "O heavens! Are we not all brethren? Are we not all the children of one Father?" etc. Samuel said : "I can arrange the calendar for the whole captivity." Rabba used to fast two days for the Day of Atonement. Once it happened that he was right, 29-34

MISHNAS IV. to VII. For the sake of (the new moon), of the two months Nissan and Tishri, witnesses may profane the Sabbath. Formerly they profaned the Sabbath for all (new moons), but since the destruction of the Temple they instituted that (witnesses) might profane the Sabbath only on account of Nissan and Tishri. It once happened that more than forty pair (of witnesses) were on the highway (to Jerusalem) on the Sabbath. Shagbar, the superintendent of Gader, detained them, and (when) R. Gamaliel (heard of it, he) sent and dismissed him. It once happened, that Tobias the physician, his son, and his freed slave saw the new moon in Jerusalem. The explanation of the passage Exodus xii. 1, by R. Simeon and the rabbis. Who are incompetent witnesses? Gamblers with dice, etc., . . . 34-36

CHAPTER II.

MISHNAS I. to IV. If the Beth Din did not know (the witness), another was sent with him to testify in his behalf. It once happened that R. Nehorai went to Usha on the Sabbath to testify (to the character) of one witness. The legend how the Boëthusians appointed false witnesses. Formerly bonfires were lighted (to announce the appearance of the new moon); but when the Cutheans practised their deceit it was ordained that messengers should be sent out. There are four kinds of cedars. The whole country looked like a blazing fire. Each Israelite took a torch in his hand and ascended to the roof of his house. Great feasts were made for (the witnesses) in order to induce them to come frequently. How were the witnesses examined? The sun never faces the concave of the crescent or the concave of a rainbow. (If the witnesses say) "We have seen the reflection (of the moon) in the water, or through a metal mirror, or in the clouds," "their testimony is not to be accepted." The chief of the Beth Din says : "It (the new moon) is consecrated," and all the people repeated after Him : "It is consecrated, it is consecrated." Pelimo teaches : "When the new moon appeared at its proper time, they used not to consecrate it," 37-42

MISHNAS V. and VI. R. Gamaliel had on a tablet, and on the wall of his upper room, illustrations of the various phases of the moon. Is this permitted? Yea, he had them made to teach by means of them. It happened once, that two witnesses came and said : "We saw the moon in the eastern part in the morning and in the western part in the evening." R. Johanan b. Nuri declared them to be false witnesses. Two other witnesses came and said : "We saw the moon on its proper day, but could not see it on the next evening." R. Gamaliel received them; but R. Dosa b. Harkhinus said : "They are false witnesses." R. Joshua approved his opinion. Upon this,

Gamaliel ordered the former to appear before him on the Day of Atonement, according to his computation, with his staff and with money. What R. Joshua did, and what R. Aqiba and R. Dosa b. Harkhinās said about it. What R. Hiyya said when he saw the old moon yet on the morning of the twenty-ninth day. Rabbi said to R. Hiyya: "Go to Entob and consecrate the month, and send back to me as a password, 'David the King of Israel still lives.'" The consecration of the moon cannot take place at a period less than twenty-nine and a half days, two-thirds and .0052 (*i.e.*, seventy-three Halaqim) of an hour. Even if the commonest of the common is appointed leader by a community, he must be considered as the noblest of the nobility. A judge is to be held, "in his days," equal in authority with the greatest of his antecedents. Gamaliel said to R. Joshua: "Happy is the generation in which the leaders listen to their followers, and through this the followers consider it so much the more their duty (to heed the teachings of the leaders)," 42-44

CHAPTER III.

MISHNA I. If the Beth Din and all Israel saw (the moon on the night of the thirtieth day), but there was no time to proclaim, "It is consecrated," before it has become dark, the month is intercalary. When three who formed a Beth Din saw it, two should stand up as witnesses and substitute two of their learned friends with the remaining one (to form a Beth Din). No greater authority than Moses, our master, yet God said to him that Aaron should act with him. No witness of a crime may act as judge, but in civil cases he may, 45-46

MISHNAS II. to IV. Concerning what kind of cornets may be used on New Year's and Jubilee days. Some words in the Scripture which the rabbis could not explain, until they heard the people speak among themselves. The cornet used on the New Year was a straight horn of a wild goat, the mouthpiece covered with gold. The Jubilee and the New Year's Day were alike in respect to the sounding (of the cornet) and the benedictions, but R. Jehudah's opinion was different. R. Jehudah holds that on New Year's Day the more bent in spirit a man is, and on the Day of Atonement the more upright he is (in his confessions), the better; but R. Levi holds the contrary. "On the fast days two crooked ram's-horns were used, their mouthpieces being covered with silver." According to whom do we nowadays pray: "This day celebrates the beginning of thy work, a memorial of the first day"? It is unlawful to use a cornet that has been split and afterwards joined together. If one should happen to pass by a synagogue, or live close by it and should hear the cornet, he will have complied with the requirements of the law. If one covered a cornet on the inside with gold it might not be used. If one heard a part of (the required number of) the sounds of the cornet in the pit, and the rest at the pit's mouth, he has done his duty. If one blew the first sound (*Teqia*), and prolonged the second (*Teqia*) as long as two, it is only reckoned as one. If one who listened (to the sounds of the cornet) paid the proper attention, but he that

blew the cornet did not, or *vice versa*, they have not done their duty until both blower and listener pay proper attention. If special attention in fulfilling a commandment or doing a transgression is necessary or not. As long as Israel looked to Heaven for aid, and directed their hearts devoutly to their Father in Heaven, they prevailed; but when they ceased to do so, they failed. All are obliged to hear the sounding of the cornet, priests, Levites, and Israelites, proselytes, freed slaves, a monstrosity, a hermaphrodite, and one who is half-slave and half-free. One may not say the benediction over bread for guests unless he eats with them, but he may for the members of the family, to initiate them into their religious duties, . . . 46-52

CHAPTER IV.

MISHNAS I. to IV. Regarding if the New Year fall on Sabbath. Where the shofer (cornet) should be blown after the Temple was destroyed. What was the difference between Jamnia and Jerusalem? Once it happened that New Year's Day fell on the Sabbath, and all the cities gathered together. Said R. Johanan b. Zakkai to the Benai Betherah: "Let us sound (the cornet)!" "First," said they, "let us discuss!" R. Johanan b. Zakkai ordained that the palm-branch should everywhere be taken seven days, in commemoration of the Temple. Since the destruction of the Temple, R. Johanan b. Zakkai *ordained* that it should be prohibited (to eat of the new produce) the whole of the day of waving (the sheaf-offering). Once the witnesses were delayed in coming, and they disturbed the song of the Levites. They then ordained that evidence should only be received until (the time of) the afternoon service. Concerning what songs the Levites had to sing every day from the Psalms. What did the Levites sing when the additional sacrifices were being offered on the Sabbath? What did they sing at the Sabbath afternoon service? According to tradition, a corresponding number of times was the Sanhedrin exiled. The witnesses need only go to the meeting place (of the Beth Din). Priests may not ascend the platform in sandals, to bless the people; and this is one of the nine ordinances instituted by R. Johanan b. Zakkai, . . . 53-57

MISHNA V. Regarding the order of the benedictions on New Year's Day at the morning prayer, additional prayers, and at what time the cornet must be blown, etc. What passages from the Scriptures are selected for additional prayers on New Year's Day. To what do the ten scriptural passages used for the Malkhioth correspond? How many passages must be recited from Pentateuch, Prophets, and Hagiographa? We must not mention the remembrance of the individual (in the Zikhronoth), even if the passage speaks of pleasant things. What are the passages which must be said in the benediction of Malkhioth, Zikhronoth, and the Shophroth? R. Elazar b. R. Jose says: "The Vathiqin used to conclude with a passage from the Pentateuch." "Hear, O Israel, the Lord our God is our Lord," may be used in the Malkhioth. The second of those who act as ministers of the congregation on the Feast of New Year shall cause another to sound the cornet on days when the Hallel (Service of Praise, Ps. cxiii.-cxviii.) is read.

We are permitted to occupy ourselves with teaching (children) until they learn (to sound the cornet), even on the Sabbath. The order, and how many times it must be blown ; also, the different sounds and the names of them. How all this is deduced from the Bible, and the difference of opinions between the sages. Generally the soundings of the cornet do not interfere with each other, nor do the benedictions, but on New Year's Day and the Day of Atonement they do. R. Papa b. Samuel rose to recite his prayers. Said he to his attendant, "When I nod to you, sound (the cornet) for me." Rabha said to him, that this may only be done in the congregation. A man should always first prepare himself for prayer, and then pray. R. Jehudah prayed only once in thirty days, 57-66

"NEW YEAR."

CHAPTER I.

THE ORDINANCES ABOUT THE NEW YEARS OF THE JEWISH CALENDAR
—THE MESSENGERS THAT WERE SENT OUT FROM JERUSALEM—
AND AT WHICH PERIOD OF THE YEAR THE WORLD IS DIVINELY
JUDGED.

MISHNA I.: There are four New Year days, viz.: The first of Nissan is New Year for (the ascension of) Kings and for (the regular rotation of) festivals;* the first of Elul is New Year for the cattle-tithe,† but according to R. Eliezer and R. Simeon, it is on the first of Tishri. The first of Tishri is New Year's day, for ordinary years, and for sabbatic years‡ and jubilees; and also for the planting of trees§ and for herbs.¶ On the first day of Shebhat is the New Year for trees,¶ according to the school of Shammai; but the school of Hillel says it is on the fifteenth of the same month.**

GEMARA: "*For kings.*" Why is it necessary to appoint such a day? (Let every king count the day of his ascension to the throne as the beginning of his year.) Said R. Hisda: "On account of documents." So that in the case of mortgages, one may know which is the first and which is the second by means of

* This refers to the law concerning vows. If one made a vow it had to be fulfilled before the three festivals elapsed in the order of Passover, Pentecost, and Tabernacles, as will be explained further on.

† A date had to be appointed in order to keep the tithes of animals born and products of the earth, distinct from year to year.

‡ Vide Lev. xxv. and Deut. xv.

§ With regard to the prohibition of eating fruit of newly planted trees [Lev. xix. 23-25].

¶ So as not to mix the tithe of herbs from year to year.

¶ With regard to the tithe due on fruit trees.

** The Gemara fully discusses the reasons for these institutions, but we deem it wise to anticipate, for the sake of clearness.

the year of the king's reign mentioned in the documents. The rabbis taught: A king who ascends the throne on the 29th of Adar must be considered to have reigned one year as soon as the first of Nissan comes, but if he ascends the throne on the first of Nissan he is not considered to have reigned one year until the first of Nissan of the following year. From this we infer, that only Nissan is the commencement of years for kings (or the civil New Year); that even a fraction of a year is considered a year; and that if a king ascends the throne on the first of Nissan, he is not considered to have reigned one year until the next first of Nissan, although he may have been elected in Adar. The Boraitha teaches this lest one say that the year should be reckoned from the day of election, and therefore the king would begin his second year (on the first of Nissan following).

The rabbis taught: If a king die in Adar, and his successor ascend the throne in Adar, (documents may be dated either) the (last) year of the (dead) king or the (first) year of the new king. If a king die in Nissan, and his successor ascend the throne in Nissan, the same is the case. But if a king die in Adar, and his successor does not ascend the throne until Nissan, then the year ending with Adar should be referred to as the year of the dead king, and from Nissan it should be referred to as that of his successor.* Is this not self-evident? The case here mentioned refers to an instance where the new king was a son of the deceased, and, while ascending the throne in Nissan, had been elected in the month of Adar, and being the king's son, it might be assumed that he was king immediately after his election, and thus the following first of Nissan would inaugurate the second year of his reign. He comes to teach us that such is not the case.

R. Johanan says: Whence do we deduce that we reckon the commencement of years (for the reign) of kings, only from Nissan? Because it is written [I Kings, vi. 1]: "And it came to pass in the four hundred and eightieth year after the going forth of the children of Israel out of the land of Egypt, in the fourth year of the month Ziv, which is the second month of the reign of Solomon over Israel." Thus the Scriptures establish an analogy between "the reign of Solomon" and "the Exodus from Egypt." As the Exodus from Egypt is reckoned from Nissan,

* No reference should be made after the first of Nissan to the reign of the king just deceased. For instance: it was not permitted to speak of the year beginning with Nissan, as the second year after the death of the king.

so also is the reign of Solomon reckoned from Nissan. But how do we know that the Exodus *even* should be reckoned from Nissan? Perhaps we should reckon it from Tishri. This would be improper, for it is written [Numb. xxxiii. 38]: "And Aaron, the Priest, went up into Mount Hor at the commandment of the Lord, and died there, in the fortieth year after the children of Israel were come out of the land of Egypt, on the first day of the fifth month." And it is written [Deut. i. 3]: "And it came to pass in the fortieth year, in the eleventh month, on the first day of the month, Moses spake," etc. Since he mentions the fifth month, which is certainly Abh, and he speaks of (Aaron's death as happening in) the fortieth year (and not the forty-first year), it is clear that Tishri is not the beginning of years (for kings). This argument would be correct as far as the former (Aaron's) case is concerned, for the text specifically mentions (forty years after) the Exodus; but in the latter (Moses') case, how can we tell that (the fortieth year) means from the Exodus? Perhaps it means (the fortieth year) from the raising of the Tabernacle in the wilderness. From the fact that R. Papa stated further on, that the twentieth year is mentioned twice for the sake of a comparison by analogy, we must assume that the analogy of expression "the fortieth year" (mentioned in connection with both Aaron and Moses) signifies also;* as in the former case it means forty years from the time of the Exodus, so also in the latter case. But whence do we know that the incident that took place in Abh (the death of Aaron) happened before (the speech of Moses) which is related as happening in Shebhat? Perhaps the Shebhat incident happened first. It is not reasonable to suppose this, for it is written [Deut. i. 4]: "After he had slain Sihon the king of the Amorites," and when Aaron died Sihon was still living. Thus it is written [Numb. xxi. 1]: "And the Canaanite, the king of Arad, heard." What did he hear? He heard that Aaron was dead, and that the clouds of glory had departed (and he thought that a sign that permission was given from heaven to fight against Israel).† How can we make any such comparison? In the one place it speaks of the Canaanite,

* The statement of R. Papa is quoted here, because it is a rule of the Talmud that no comparisons by analogy may be cited unless they emanate from a tradition or teaching known to the master making such a comparison, and this rule applies throughout the Talmud.

† Because the life of the righteous is a protection for the whole people.

and in the other of Sihon. We have learned in a Boraitha that Sihon, Arad, and the Canaanite are identical. This opinion of R. Johanan is quite correct, for we find that a Boraitha quotes all the verses that he quotes here, and arrives at the same conclusion.

R. Hisda says: The rule of the Mishna—that the year of the kings begins with Nissan—refers to the kings of Israel only, but for the kings of other nations it commences from Tishri. As it is said [Neh. i. 1]: “The words of Nehemiah, the son of Hakhaliah. And it came to pass in the month of Kislev, in the twentieth year,” etc. And it is written [ibid. ii. 1]: “And it came to pass in the month Nissan, in the twentieth year of Artaxerxes the king,” etc. Since Hanani stood before Nehemiah in Kislev, and the Bible speaks of it as the twentieth year, and since Nehemiah stood before the king in Nissan, and the Text calls it also the twentieth year, it is clear that the New Year (for the non-Jewish king, Artaxerxes) is not Nissan (or in the latter case he would have spoken of the twenty-first year). This would be correct as far as the latter quotation is concerned, for it specifically mentions Artaxerxes, but in the former verse how do we know that it refers to Artaxerxes? Perhaps it refers to another event altogether. Says R. Papa: Since in the first passage we read “the twentieth year” and in the second we read “the twentieth year,” we may deduce by analogy that as in the one case Artaxerxes is meant, so is he meant also in the other. But how do we know that the event, recorded as having occurred in Kislev, and not the Nissan incident, happened first? This we know from a Boraitha, where it reads: The same words which Hanani said to Nehemiah in Kislev, the latter repeated to the king in Nissan, as it is said [Neh. i. 1, 2]: “The words of Nehemiah, son of Hakhaliah. And it came to pass in the month of Kislev, in the twentieth year, as I was in Shushan the capital, that Hanani, one of my brethren came, and certain men of Judah . . . and the gates thereof are burned with fire.” And it also said [Neh. ii. 1–6]: “And it came to pass in the month of Nissan, in the twentieth year of Artaxerxes the king, that wine was before him . . . so it pleased the king to send me; and I set him a time.”

R. Joseph raised an objection. It is written [Haggai, ii. 10]: “In the twenty-fourth day of the sixth month, in the second year of Darius.” And it is also written [ibid. 1]: “In the second year, in the seventh month, in the one-and-twentieth

day of the month."* If the rule is that Tishri (the seventh month) is the beginning of years for non-Jewish kings, should not the Text read "in the third year of Darius" instead of the second year? R. Abbahu answered: Cyrus was a most upright king, and the Hebrews reckoned his years as they did those of the kings of Israel (beginning with Nissan). R. Joseph opposed this. First: If that were so, there are texts that would contradict each other, for it is written [Ezra, vi. 15]: "And this house was finished on the third day of the month Adar, which was in the sixth year of the reign of Darius the King." And we have learned in a Boraitha: At the same time in the following year Ezra and the children of the captivity went up from Babylon, and the Bible says about this [Ezra, vii. 8]: "And he came to Jerusalem in the fifth month in the seventh year of the king." But if the rule is (that for Cyrus the year began with Nissan and not Tishri) should not the Text say "the eighth year" (since the first day of Nissan, the beginning of another year, intervenes between the third of Adar and the month of Abh)? Secondly: How can these texts be compared? In the one place it speaks of Cyrus, and in the other of Darius. We have learned in a Boraitha that Darius, Cyrus, and Artaxerxes are all one and the same person.

"*And for festivals.*" Do then the festivals commence on the first of Nissan? Do they not begin on the fifteenth of that month? R. Hisda answered: (The Mishna means that Nissan is) the month that contains that festival which is called the New Year for festivals (viz., Passover).

What difference does it make (in practice)? It makes a difference to one who has made a vow, because through this festival he becomes culpable of breaking the law, "Thou shalt not slack to pay."† And this is according to the opinion of R. Simeon, who says: That (before one is guilty of delay) the three festivals must have passed by in their regular order, with Passover as the first (of the three). Thus was also the dictum of R. Simeon ben Jochai, who stated that the law against procrastina-

* The Rabbis of the Talmud must have had a different version of the book of Haggai from that existing at present. In the second passage quoted, namely Haggai ii. 1, the words "in the second year" cannot be found. There is, therefore, a great difficulty in understanding the discussion. Even Rashi is unable to enlighten us on this point.

† This law of "Thou shalt not slack to pay," is known as "*BAL TE'AHAR*"; i.e., the law against procrastination or delay.

tion may be violated at times only when five festivals had passed by in their regular order; at other times when four, and again when three festivals had passed; *i.e.*, if the vow was made before the feast of Pentecost he becomes guilty of procrastination only when Pentecost, Tabernacles, Passover, and again Pentecost and Tabernacles had passed by; if the vow was made before Tabernacles then he becomes guilty.

The rabbis taught: As soon as three festivals have passed by and the following duties (or vows) have not been fulfilled one is guilty of procrastination; and these are: The vow of one who says, "I will give the worth of myself (to the sanctuary);" or, "I will give what I am estimated to be worth (in accordance with Lev. xxvii.);" or the vow concerning objects, the use of which one has forsworn, or which one has consecrated (to the sanctuary), or sin-offerings, guilt-offerings, burnt-offerings, peace-offerings, charity, tithes, the firstlings, the paschal offerings, the gleanings of the field, that which is forgotten to be gathered in the field, the produce of the corner of the field.* R. Simeon says: The festivals must pass by in their regular order, with Passover as the first. And R. Meir says: As soon as even one festival has elapsed and the vow has not been kept the law is infringed. R. Eliezer ben Jacob says: As soon as two festivals have elapsed the law is infringed, but R. Elazar ben Simeon says: Only the passing of the Feast of Tabernacles causes the infringement of the law (whether or not any other festivals have passed by between the making and the fulfilling of the vow). What is the reason of the first Tana? Since in [Deut. xvi.] the Text has been speaking of the three festivals, why does it repeat, "On the Feast of Unleavened Bread, on the Feast of Weeks, and on the Feast of Tabernacles?" This signifies that when Tabernacles, Passover, Pentecost, and again Tabernacles had passed, but if the vow was made before Passover, then the man becomes guilty if he allows the *three* festivals to pass by in their regular order. Infer from this that the festivals must pass in the order just mentioned before one is guilty of procrastination. R. Simeon says: It was not necessary to repeat "on the Feast of Tabernacles," because the Text was speaking of that festival (when it mentioned the names of the three festivals). Why, then, does it repeat it? To teach us that Tabernacles shall be the last of the three festivals. R. Meir

* Lev. xxiii. 22.

arrives at his opinion because it is mentioned of each festival "Thou shalt come there (to Jerusalem), and ye shall bring there" (your vows; and this being said of each festival, if *one* elapses and the vow is not brought, then the law against delay is infringed. The reason of R. Eliezer ben Jacob is, that the passage [Numb. xxix. 39] runs: "These shall ye offer to the Lord on your appointed feasts," and the minimum of the plural word "feasts" is *two*. On what does R. Elazar b. Simeon base his opinion? We have learned in the following Boraitha: "The Feast of Tabernacles" should not have been mentioned in [Deut. xvi. 16], since the preceding passages (of that chapter) were treating of that feast. Why, then, was it mentioned? To indicate that that particular feast (Tabernacles) is the one that causes the infringement of the law.

What do R. Meir and R. Eliezer ben Jacob deduce from the superfluous passage "on the Feast of Unleavened Bread, on the Feast of Weeks, and on the Feast of Tabernacles"? They use this verse, according to R. Elazar, who says in the name of R. Oshiya, who said: Whence do we know that the law of compensation* applies to the Feast of Weeks (although the feast is only one day)? For this very reason the Bible repeats the three festivals, and he institutes a comparison between Pentecost and Passover; and as the law of compensation applies to Passover for seven days, so also does it apply to Pentecost for seven days. Why, then, do the Scriptures find it necessary to repeat the words, "In the Feast of Tabernacles"? To compare it with the Feast of Passover, as during Passover it was obligatory to stay over night (in Jerusalem), so was it also necessary during the Feast of Tabernacles. But how do we know that it was obligatory during the Feast of Unleavened Bread? It is written [Deut. xvi. 7]: "Thou shalt turn in the morning (after staying over night), and go unto thy tents." Whence do we deduce this? The rabbis taught: It is written [Deut. xxiii. 22]: "When thou shalt vow a vow unto the Lord thy God, thou shalt not delay to pay it." Perhaps these words only apply to a vow. How do we know that they may also be applied to a voluntary offering? In the passage just quoted we read "vow," and in another place [Lev. vii. 16] we find "but if the sacrifice of his offering be a vow or a voluntary offering";

* The privilege of bringing on one of the later days of a festival a sacrifice that should have been offered on the first day.

as in the latter instance the "voluntary offering" is included, so is also the former; "unto the Lord thy God," *i.e.*, offerings expressed by "I will give the value of myself," etc., and other objects mentioned above; "thou shalt not slack to pay it"; *i.e.*, the object promised must be given and not anything in exchange for it; * "for he will surely require it," *i.e.*, the sin, guilt, burnt, and peace-offerings; "the Lord thy God," these words refer to offerings of charity, tithes, and firstlings; "of thee," this refers to the gleanings, that which is forgotten in the field and the produce of the corner of the field; "and it would be sin in thee," *i.e.*, in thee and not in thy sacrifice (which is not thereby invalidated).

The rabbis taught: It is written [Deut. xxiii. 24]: "What is gone out of thy lips," this refers to the positive commandments (of the Law); "thou shalt keep," refers to the negative commandments; "and perform," is a warning to the Beth Din (that they should enforce the laws); "according as thou hast vowed," refers to vows; "to the Lord thy God," refers to sin, guilt, burnt, and peace-offerings; "voluntarily," means just what it is; "which thou hast spoken," refers to the sanctified objects devoted to the Temple for repairs, etc.; "with thy mouth," refers to charity. Says Rabha: One is culpable if he does not give forthwith that which he has vowed for charity. Why so? Because there are always poor people (needing immediate help). Is this not self-evident? One might suppose that, since the law prohibiting delay is found in connection with the duty of giving charity and also of bringing the various voluntary offerings, it would apply to both, and it would not be infringed until the three festivals had elapsed, he comes to teach us (that charity and sacrifices are different); in the latter case the infringement of the law depends on the festivals, but in the case of charity it must be given immediately, for the poor are always to be found. And Rabha said again: As soon as three festivals have passed (and one has not brought his offering), he daily transgresses the law against delay. An objection was raised. As soon as a year, containing three festivals or not, has passed (he that does not bring his offering), be it a firstling or any of the holy offerings, transgresses daily the law against delay. It is quite possible that the three festivals may elapse and yet a year may not go by (*i.e.*, from Passover till Tabernacles is only

* Lev. xxvii. 32.

seven months), but how can it happen that a year may pass and the three festivals should not occur (in that time)? It may happen according to those who say (that the three festivals must elapse) in their regular order, but according to those who do not say (that the three festivals must go by) in their regular order, how can such a case occur? This would be correct according to Rabbi (who holds that the intercalary month* is not a part of the year), and it occurs in a leap year, when one consecrates anything (to the Temple) after the Feast of Pass-over; for when the end of the second Adar has arrived, a year (of twelve months) has elapsed, yet the three festivals have not passed by in their regular order. But how can such a case occur according to the rabbis? It can happen as R. Shemaiah teaches: Pentecost falls on the fifth, sixth, or seventh of Sivan. How is this possible? In a year when the months of Nisan and Iyar have thirty days each, Pentecost falls on the fifth of Sivan; when they each have twenty-nine days, Pentecost falls on the seventh of Sivan; but when the one has twenty-nine days and the other has thirty days, Pentecost falls on the sixth of Sivan.

R. Zera asked: How does the law against delay affect an heir? Shall we argue that the Law says [Deut. xxiii. 22]: "When *thou* shalt vow" (*i.e.*, the testator has vowed), but the heir has not vowed (consequently the law does not apply to him), or shall we infer from the passage [Deut. xii. 5, 6]: "And thither shalt thou come . . . and ye shall bring," that the heir (who is obliged to come) is also in duty bound to bring with him (the objects vowed by the testator)? Come and hear. R. Hyya taught: It is written in this connection [Deut. xxiii. 22]: "Of thee" (*i.e.*, from the one who vowed) and this excludes the heir. But did we not say above that these words refer to the gleanings, etc.? The Text uses the word Me'immokh ("of thee"), which we can explain to mean both the successor and the gleanings, etc. (*i.e.*, all that comes "of thee").

R. Zera also asked: How does the law against delay affect a woman? Shall I say that since she is not obligated to appear (in Jerusalem) the law does not apply to her? or perhaps it is her duty to go there because she is included in the law "to rejoice"? "Certainly," answered Abayi, "she is bound by this law because it is her duty to rejoice."

* Leap year occurs seven times in a cycle of nineteen years. On such occasions one month, the second Adar, is added to the twelve lunar months.

The schoolmen asked: From when do we count the beginning of the year for a firstling? Answered Abayi: From the moment it is born; but R. Aha b. Jacob said: From the moment it is acceptable as an offering (*i.e.*, when it is eight days old, Lev. xxii. 27). They do not differ, for the former Rabbi refers to an unblemished animal and the latter to one with a blemish. May, then, a blemished animal be eaten (on the day of its birth)? Yes, if we are sure it was born after the full period of gestation.

The rabbis taught: The first of Nissan is the new year for (arranging the) months, for (appointing) leap years, for giving the half shekels, and, some say, also for the rental of houses. Whence do we know (that it is the new year) for months? From the passage [Ex. xii. 2] where it is written: "This month shall be unto you the beginning of months; it shall be the first month of the year to you." It is also written [Deut. xvi. 1]: "Observe the month of Abib" (early stage of ripening). In which month is grain in the early stage of ripening? I can say only Nissan, and the Law calls it the first. Could I not say Adar (when the grain begins to shoot up)? Nay, for the grain must be ripening during the major portion of the month (and in Adar it is not). Is it then written that the grain must be ripening the major portion of the month? Therefore, says Rabhina, the sages do not find (the rule of calling Nissan the first month) in the Pentateuch, but in the Book of Esther, where it is clearly stated [Esther, iii. 7], "In the first month, that is, the month Nissan."

"*For leap years.*" Do we, then, count leap years from Nissan? Does not a Boraitha teach us that Adar only is the intercalary month? Answered R. Na'hman b. Itz'hak: The words "FOR LEAP YEARS" mean here the termination of leap years,* and our Tana speaks of the beginning of the leap year and not the end.

"*For giving the half shekels.*" Whence do we deduce this? Said R. Yoshiah: In Numb. xxviii. 14: "This is the burnt-offering of the new moon throughout the months of the year." The Scriptures say "*proclaim it a new month,*" and also bring a sacrifice from the new products. We make a comparison between the words "year" used in this passage and in Ex. xii. 2,

* As soon as Nissan had been consecrated, there could be no further debate about making the past year intercalary, for once the new month had been called Nissan, it was forbidden to call it by any other name.

'it shall be the first month of the year to you," and deduce that they both refer to Nissan.

R. Jehudah says in the name of Samuel: It is required that the congregational sacrifices* brought on the first of Nissan should be purchased with the shekels collected for the new year; but if the sacrifice was bought with the funds obtained from the former year's funds, it is acceptable, yet the law was but imperfectly complied with. We have also learned the same in a Boraitha with the addition that, if an individual offers from his own property (proper objects for the congregational sacrifices), they are acceptable, but he must first present them to the congregation. Is this not self-evident? Nay, it may be feared that one will not give them to the congregation with a free will, and this, he teaches us, is not worthy of consideration. And the reason that our Tana does not mention that Nissan is a new year for the giving of shekels also, is because it is said above that if one has brought an offering (from the old funds) he has done his duty, therefore he could not make Nissan absolutely binding as a new year for the sacrifices.

It is said above: "And some say also for the rental of houses." The rabbis taught: He who lets a house to another for a year, should count (the year) as twelve months from day to day; but if the lessee says (I rent this house) "for this year," even if the transaction takes place on the first of Adar, as soon as the first of Nissan arrives, the year (of rental) has expired. Can you not say Tishri (is the beginning of the year for such transactions)? Nay, it is generally understood that if a man rents a house in the autumn he rents it for the whole of the rainy season (winter). And the Tana of the first part of the above Boraitha (who does not fix Nissan as the month for rentals), and also our Tana both are of the opinion that in Nissan, too, bad weather sometimes prevails (and therefore Nissan and Tishri are alike in this respect).

"*On the first of Elul is the new year for the cattle-tithes.*" According to whose opinion is this? Says R. Joseph: It is according to Rabbi's own opinion which he formed in accordance with the opinions of different Tana'im. With regard to the festivals he holds with R. Simeon and with regard to the cattle-tithe he holds to the opinion of R. Meir. If that is so, are there not

* The TAMID or daily offering could not be presented to the Temple by an individual.

five beginnings of years instead of four? Rabha answered that the Mishna mentioned only the four, which are not disputed by any one. According to R. Meir there are four, if that "for the festivals" be excluded, and according to R. Simeon there are four, if that "for the cattle-tithes" be excluded. R. Na'hman bar Itz'hak, however, says: (No such explanation is needed); the Mishna means that there are four (months) in which there are (or may be) many beginnings of years.

"According to R. Eliezer and R. Simeon it is on the first of Tishri." R. Johanan says: Both of them deduce their opinion by (various interpretations of) the same scriptural passage. It is written [Psalms, lxxv. 14]: "The meadows are clothed with flocks; the valleys also are covered with corn; men shout for joy, they also sing." R. Meir thinks (this is the interpretation) of these words: When are the meadows clothed with flocks? At the season when the valleys are covered with corn. And when are the valleys covered with corn? About (the time of) Adar. The flocks conceive in Adar and produce their young in Abh; consequently the beginning of the year (for the cattle-tithe) is Elul. R. Eliezer and R. Simeon, however, say: When are the meadows clothed with flocks? At the season when they shout and sing. When do the ears of corn (seem to) send up a hymn of praise? In Nissan. Now, the sheep conceive in Nissan and produce in Elul, consequently the beginning of the year (for their tithe) is Tishri. But Rabha says: All agree that only Adar is the time when the meadows are clothed with flocks, and the valleys are covered with corn. But they differ about this passage [Deut. xiv. 22]: "Thou shalt truly tithe" (*literally*, "Thou shalt tithe in tithing"), and we see that the text here speaks of two tithes—viz., of cattle and of grain. R. Meir thinks that the following comparison may be instituted between the two: just as the tithe of grain must be given in the month nearest to the time it is reaped, so that of cattle must be given in the month nearest to the one in which they are born (Elul). R. Eliezer and R. Simeon, however, are of the opinion that another comparison may be instituted between these tithes—viz., just as the beginning of the year for giving the tithe of grain is Tishri, so also is Tishri for that of cattle.

"The first of Tishri is the New Year's Day for ordinary years." For what purpose is this rule? Answers R. Zera, to determine the equinoxes (and solstices); and this agrees with the opinion of R. Eliezer, who says that the world was created

in Tishri; but R. Na'hman says (it is the new year) for divine judgment, as it is written [Deut. xi. 12]: "From the beginning of the year till the end of the year," *i.e.*, at the beginning of the year it is determined what shall be at the end of the year. But whence do we know that this means Tishri? It is written [Psalms, lxxxi. 3]: "Blow on the new moon the cornet at the time when it (the new moon) is hidden* on our solemn feast day." What feast is it on which the moon is hidden? We can only say Rosh Hashana (New Year's Day), and of this day it is written [ibid. v. 4]: "For it is a statute unto Israel, a judgment (day) for the God of Jacob."

The rabbis taught: "It is a statute unto Israel," whence we infer that the Heavenly Court of Judgment does not enter into judgment until the Beth Din on earth proclaims the new moon. Another Boraitha states: It is written: "It is a statute unto Israel." From this it appears that (New Year's Day is a day of judgment) only for Israel. Whence do we know it is so also for other nations? Therefore it is written: "It is the day of judgment of the *God* of Jacob" (the Universal God). Why, then, is "Israel" mentioned? To inform us that Israel comes in for judgment first. This is in accordance with the saying of R. Hisda: If a king and a congregation have a law suit, the king enters first, as it is said [I Kings, viii. 59]: "The cause of his servant (King Solomon) and the cause of his people." Why so? Because it is not customary to let a king wait outside.

"*For the computation of sabbatic years.*" On what scriptural passage is this based? On Lev. xxv. 4, which reads: "But in the seventh year there shall be a sabbath of rest unto the land," and he deduces (that it means Tishri) by analogy from the word "year" in this passage and in the following: "From the beginning of the year" [Deut. xi. 12], which surely refers to Tishri.

"*And jubilees.*" Do, then, jubilees begin on the first of Tishri? Do they not begin on the tenth, as it is written [Lev. xxv. 9]: "On the Day of Atonement shall ye make the cornet sound throughout all your land"? Our Mishna is in accordance with R. Ishmael the son of R. Johanan ben Berokah of the following Boraitha: It is written [Lev. xxv. 10]: "Ye shall sanctify the year, the fiftieth *year*." Why was it necessary to repeat the word "year"? Because in the same connection it

* This is the literal translation of the verse in Psalms; the free translation is "at the appointed time," according to Isaac Leeser.

is said [ibid. 9]: "On the Day of Atonement shall ye make the cornet sound," and one might suppose that the jubilee is sanctified only from the Day of Atonement (and not before). Therefore the word "year" is repeated to teach us that by the words "ye shall sanctify the fiftieth year" is meant, that from the very beginning of the year the jubilee commences to be consecrated. From this R. Ishmael the son of R. Johanan b. Bero-kah says: From New Year's Day until the Day of Atonement slaves were not wont to return to their (own) homes, neither did they serve their masters, but they ate and drank and rejoiced with the crown of freedom on their heads. As soon as the Day of Atonement arrived the Beth Din ordered the cornet to be blown and the slaves returned to their own homes, and estates reverted to their (original) owners.

We have learned in another Boraitha: "It is a jubilee" (Jobhel hi). What is meant by (these superfluous words)? Since it is said [Lev. xxv. 10]: "And ye shall sanctify the fiftieth year," one might think that, as at the beginning of the year the jubilee commences to be sanctified, the sanctification should be extended to the (Day of Atonement) after the end of the year; and be not surprised at such a teaching, since it is customary to add from the non-sanctified to the sanctified. Hence the necessity of the words in the passage (next to that quoted above) [Lev. xxv. 11]: "A jubilee shall that fiftieth year be unto you"; *i.e.*, the fiftieth year shall be hallowed, and not the fifty-first. But the rabbis, whence do they derive the regulation that the fifty-first year is not sanctified? Because it is plainly written the fiftieth year and not the fifty-first. This excludes the opinion of R. Jehudah who holds that the jubilee year is added at the beginning and end.* The rabbis taught "Jobhel hi (it is a jubilee)," even if the people have not relinquished (their debts), even if the cornet is not sounded; shall we also say even if slaves are not released? Hence the word "hi" is used (to indicate that only when the slaves are released it is a jubilee), so says R. Jehudah. R. Jose says: "It is a jubilee," even if debts are not relinquished and slaves are not released; shall we also say even if the cornet is not sounded? Hence the word "hi" is used (and means the sounding of the cornet). Since one passage includes (all that is prescribed) and the other

* *I.e.*, the Jubilee year is, at the same time, the fiftieth year of the last and the first of the coming series.

passage exempts (certain regulations), why should we say it is a jubilee even if they have not released slaves, but that it is not a jubilee if they failed to sound the cornet? Because it is possible that sometimes (a jubilee may occur) and yet there are no (Hebrew) slaves to release, but a jubilee can never occur without the sounding of the cornet (for a cornet can always be found). Another explanation is, that (the sounding of the cornet) is the duty of the Beth Din (and it will never fail to perform it), while (the releasing of slaves) is the duty of the individual, and we cannot be sure that he will perform it. (Is not the first explanation satisfactory) that he gives this additional explanation? (It may not be satisfactory to some who might say) that it is impossible that not one (Hebrew) slave should be found somewhere to be released. Therefore (the Boraitha adds) that the blowing of the cornet is the duty of the Beth Din (and they will not fail to perform it).

R. Hyya b. Abba, however, said in the name of R. Johanan: The foregoing are the words of R. Jehudah and R. Jose; but the masters hold that all three conditions may prevent the fulfilment (of the law), because they hold that the word "hi" [Lev. xxv. 10] should be explained as to the subjects mentioned in the passage in which it occurs, and in the preceding and the following passages also, (and in the passage immediately following the "hi" is said, "fields reverted to their original owners." This, then, also constitutes one of the three conditions). But is it not written, "a jubilee," which certainly means to add something not mentioned previously? This additional word refers to the lands outside of Palestine, where the jubilee must also be enforced. If so, what then is the intent of the words "throughout the land"? (They lead us to infer) that at the time when (under a Jewish government) liberty is proclaimed throughout the land (Palestine) it should be proclaimed outside the land; but if it is not proclaimed in the land, it need not be proclaimed outside the land.

"*And also for the planting of trees.*" Whence do we deduce this? From Lev. xix. 23, where it is written: "Three years shall it be as uncircumcised," and also [ibid. 24]: "But in the fourth year." We compare the term "year" used here with that of Deut. xi. 12, "from the beginning of the 'year,'" and deduce by analogy that they both mean Tishri.

The rabbis taught: For one who plants, slips or grafts (trees) in the sixth year (the year before the sabbatic year), thirty days

before the New Year's day (as soon as the first of Tishri arrives), a year is considered to have passed, and he is permitted to use, during the sabbatic year (the fruits they may produce), but less than thirty days are not to be considered a year, and the fruits may not be used, but are prohibited until the fifteenth of Shebhat, whether it be because they come under the category of "uncircumcised" or under the category of "fourth year planting" [Lev. xix. 23, 24]. Whence do we deduce this? R. Hyya bar Abba said in the name of R. Johanan or R. Janai: The verse says [Lev. xix. 24, 25]: "And in the fourth year. . . . And in the fifth year," *i.e.*, it may happen that in the fourth year (from the planting, the fruit) is prohibited because it is still "uncircumcised," and in the fifth year (from the planting) because it is still the product of the fourth year.

We have learned R. Eliezer says: In Tishri the world was created, the patriarchs Abraham and Jacob were born and died; Isaac was born on the Passover; on New Year's Day Sarah, Rachel, and Hannah were visited with the blessing of children, Joseph was released from prison, and the bondage of our fathers in Egypt ceased; in Nissan our ancestors were redeemed from Egypt, and in Tishri we shall again be redeemed. R. Jehoshua says: In Nissan the world was created, and in the same month the patriarchs were born, and in Nissan they also died; Isaac was born on the Passover; on New Year's Day Sarah, Rachel, and Hannah were visited, Joseph was released from prison, and the bondage of our fathers in Egypt ceased. In Nissan our ancestors were redeemed from Egypt, and in the same month we shall again be redeemed.

We have learned in a Boraitha R. Eliezer says: Whence do we know that the world was created in Tishri? From the scriptural verse, in which it is written [Gen. i. 11]: "And God said, 'Let the earth bring forth grass, the herb yielding seed, and the fruit tree,'" etc. In what month does the earth bring forth grass, and at the same time the trees are *full* of fruit? Let us say Tishri, and that time of the year (mentioned in Genesis) was the autumn; the rain descended and the fruits flourished, as it is written [Gen. ii. 6]: "But there went up a mist from the earth," etc. R. Jehoshua says: Whence do we know that the world was created in Nissan? From the scriptural verse, in which it is written [Gen. i. 12]: "And the earth brought forth grass, and herb yielding seed, and the tree yielding fruit," etc. In which month is the earth covered with grass (and at the same

time) the trees *bring forth* fruit? Let us say Nissan, and at that time animals, domestic and wild, and birds mate, as it is said [Psalms, lxxv. 14]: "The meadows are clothed with flocks," etc. Further says R. Eliezer: Whence do we know that the patriarchs were born in Tishri? From the passage [I Kings, viii. 2]: "And all the men of Israel assembled themselves unto King Solomon at the feast, in the month Ethanim" (strong), which is the seventh month; *i.e.*, the month in which Ethanim, the strong ones of the earth (the patriarchs), were born. How do we know that the expression *ethan* means strength? It is written [Numb. xxiv. 21] *ethan moshabhekha*, "strong is thy dwelling-place," and it is also written [Micah, vi. 2]: "Hear ye, O mountains, the Lord's controversy, and (*ve-ha'ethanim*) ye strong foundations," etc.

R. Jehoshua, however, says: Whence do we know that the patriarchs were born in Nissan? From I Kings vi. 1, where it says: "In the fourth year, in the month Ziv (glory), which is the second month," etc., which means in that month in which the "glorious ones" of the earth (the patriarchs) were already born. Whether the patriarchs were born in Nissan or Tishri, the day of their death occurred in the same month as that in which they were born; as it is written [Deut. xxxi. 2]: "Moses said, 'I am one hundred and twenty years old to-day.'" The word "to-day" implies "just this day my days and years are complete," for the Holy One, blessed be He, grants the righteous the fulfilment of the years of their life to the very month and day, as it is said: "The number of thy days will I make full" [Ex. xxiii. 26].

Isaac was born in Nissan. Whence do we know this? It is written [Gen. xviii. 14]: "At the next *festival* I will return to thee, and Sarah will have a son." What festival was it when he said this? Shall I say it was Passover, and he referred to Pentecost? That cannot be, for what woman bears children after fifty days' gestation? If I say it was Pentecost, and he referred to Tishri, a similar objection might be raised, for who bears children after five months' gestation? If I say it was Tabernacles, and he referred to Passover, a similar objection may be made, for who bears children in the sixth month of gestation? This last objection could be answered according to the following Boraitha: We have learnt that that year was a leap year, and Mar Zutra says that although a child born after nine months' gestation is never born during the month (but

only at the end of the required time), still a seven months' child can be born before the seventh month is complete, as it is said [I Sam. i. 20]: "And it came to pass, *li-tequphath ha-yamim* (when the time was come about)"; the minimum of *tequphoth** is two and of *yamim* is also two (*i.e.*, after six months and two days' gestation, childbirth is possible).

Whence do we know that Sarah, Rachel, and Hannah were visited on New Year's Day? Says R. Elazar: By comparing the expression "visit" that occurs in one passage with the word "visit" that occurs in another passage, and also by treating the expression "remember" in the same way. It is written concerning Rachel [Gen. xxx. 32]: "And God remembered Rachel," and of Hannah it is written [I Sam. i. 19]: "And God remembered her." He institutes an analogy between the word "remember" used in these passages and in connection with New Year's Day, which is called [Lev. xxiii. 24] "a Sabbath, a memorial (*literally*, a remembrance) of blowing of cornets." It is also written concerning Hannah [I Sam. ii. 21]: "And the Lord visited Hannah," and of Sarah it is written [Gen. xxi. 1]: "And the Lord visited Sarah," and by analogy all these events took place on the same day (New Year's Day).

Whence do we know that Joseph was released from prison on New Year's Day? From Psalm lxxxii., in verses 4, 5, it is written: "Blow on the new moon the cornet at the appointed time on the day of our feast, for this is a statute for Israel." In verse 5 of the same Psalm it is written: "As a testimony in Joseph did he ordain it, when he went out over the land of Egypt." On New Year's Day the bondage of our fathers in Egypt ceased. (Whence do we know this?) It is written [Ex. vi. 6]: "I will bring you out from under the burdens of the Egyptians," and it is written in Psalms, lxxxii. 6: "I removed his shoulder from the burden" (*i.e.*, I relieved Israel from the burden of Egypt on the day spoken of in the Psalm; viz., New Year's Day). In Nissan they were redeemed, as previously proven. In Tishri we shall again be redeemed. This he deduces by analogy from the word "cornet" found in the following passages. In Psalm lxxxii. 4, it is stated: "Blow the cornet on the new moon" (*i.e.*, on New Year's Day), and in Isa. xxvii. 13, it is written: "And on that day the great cornet shall be

* TEQUPHA—Solstice or equinox; hence, the period of three months, which elapses between a solstice and the next equinox, is also called TEQUPHA. Mar Zutra reads the biblical term *Tequphoit* in the plural.

blown" (and as it means New Year's Day in the one place, so does it also in the other). R. Jehoshua says: "In Nissan they were redeemed, and in that month we shall be redeemed again." Whence do we know this? From Ex. xii. 42, which says: "It is a night of special observance;" *i.e.*, a night specially appointed since the earliest times for the final redemption of Israel.

The rabbis taught: The Jewish sages calculate the time of the flood according to R. Eliezer, and the solstices according to R. Jehoshua, but the sages of other nations calculate the time of the flood also as R. Jehoshua does.

"*And for herbs.*" To this a Boraitha adds "tithes and vows." Let us see. What does he mean by "herbs"? The tithe of herbs. But are not these included with other "tithes"? (Nay, for the tithe of herbs) is a rabbinical institution, while the others are biblical. If so, should he not teach the biblical commandment first? (This is no question), because it was pleasing to him (to have discovered that, although the tithe of herbs is only a rabbinical institution, yet it should have a special New Year to prevent the confusion of tithes from year to year) he, therefore, gives it precedence. And the Tana of our Mishna teaches us the rabbinical institution (*viz.*, the New Year for herbs), leaving us to infer that if that must be observed, so much the more must the biblical law be followed.

The rabbis taught: If one gathers herbs on the eve of New Year's Day before sunset, and gathers others after sunset, he must not give the heave-offering or the tithe from the one for the other, for it is prohibited to give the heave-offering or tithe from the product of the past year for that of the present, or *vice versa*. If the second year from the last sabbatic year was just ending and the third year was just beginning, then for the second year he must give the first and second tithes,* and for the third year he must give the first and the poor tithes. Whence do we deduce that (in the third year no second tithe was to be

* Tithes must be given even to-day, according to the Rabbinical law, throughout Palestine and Syria.

It was the duty of the Israelite to give of his produce the following offerings and tithes: (1) THERUMA, a heave-offering, to be given to the priest every year; the measure was not fixed by the Bible; (2) MAĀSER RISHON, or first tithe, to be given every year to the Levite; (3) MAĀSER SHENI, or second tithe, was to be taken in the second year to Jerusalem and eaten there, or to be converted into money, which was to be spent there; (4) MAĀSER ANI, or the poor tithe, to be given in the third year.

given)? R. Jehoshua ben Levi says: In Deut. xxvi. 12, it is written: "When thou hast made an end of the tithe of produce in the third year, which is the year of the *tithing*," *i.e.*, the year in which only one tithe is to be given." What is to be understood (by *one* tithe)? The first and poor tithes, and the second tithe shall be omitted. But perhaps it is not so (that the first and poor tithe are one tithe), but that the first tithe shall be also omitted. This cannot be so, for we read [Numb. xviii. 26]: "The tithe which I have given you from them, for your inheritance," etc. (From this we see that) the Scripture compares this tithe to an inheritance, and as an inheritance is the perpetual property of the heir, so also is the first tithe an uninterrupted gift for the Levite.

"*And for vows.*" The rabbis taught: Whoso vows to derive no benefit from his neighbor for a year, must reckon (for the year) twelve months, from day to day; but if he said "for this year," if he made the vow even on the 29th of Elul, as soon as the first of Tishri comes, that year is complete, for he vowed to afflict himself and that purpose (even in so brief a period) has been fulfilled. But perhaps we should say Nissan (should be regarded as the new year in such a case)? Nay, in the matter of vows we follow the common practice among men (who generally regard Tishri as the New Year).

We have learned (Maasroth I., 3): We reckon the year for giving the tithe: "for carob as soon as it begins to grow; for grain and olives as soon as they are one-third ripe." What is meant by "as soon as it begins to grow"? When it blossoms. Whence do we know that we reckon the tithe on grain and olives when they are one-third ripe? Said R. Assi in the name of R. Johanan, and the same was said in the name of R. Jose of Galilee: It is written [Deut. xxxi. 10]: "At the end of every seven years, in the solemnity of the year of release, in the Feast of Tabernacles." What has the year of release to do with Tabernacles; it is already the eighth year (because the Bible says "at the end of every seven years")? It is only to tell us that all grain which was one-third ripe before New Year's Day must be regarded even in the eighth year as the product of the sabbatic year. And for this we find support in the following Boraitha: R. Jonathan b. Joseph says: It is written [Lev. xxv. 21]: "And it shall bring forth fruit for three (*lishlosh*) years." Do not read *lishlosh* "for three," but in this case read *lishlish* "for a third" (*i.e.*, it is considered produce when it is a third ripe). But this

verse is required for its own particular purpose. There is another verse [ibid. ibid. 22]: "And when ye sow in the eighth year, then shall ye eat of the old harvest; until the ninth year, until its harvest come in, shall ye eat of the old store."

We have learned in a Mishna (Shebeith, II., 7): Rice, millet, poppies, and lentils which have taken root before New Year's Day come under the category of tithes for the past year, and therefore one is permitted to use them during the sabbatic year; but if they have not (taken root), one is forbidden to use them during the sabbatic year, and they come under the category of tithes of the following year. Says Rabha: Let us see. The rabbis say that the year (for giving tithes) begins as follows: "For a tree from the time they blossom, for grain and olives when they are one-third ripe, and for herbs when they are gathered." Now under which head are the above (rice, etc.) classed? After consideration Rabha remarked: Since these do not all ripen simultaneously, but are gathered little by little, the rabbis are right when they say they are tithable from the time they take root.

We have learned in a Boraitha: R. Jose of Galilee says: It is written [Deut. xvi. 13]: "When thou hast gathered in thy corn and thy wine." We infer that as corn and wine, now being gathered, grow by means of the past year's rains, and are tithed as last year's (before New Year's Day) products, so every fruit that grows by the rain of last year is tithable as the last year's produce; but herbs do not come under this category, for they grow by means of the rains of the new year, and they are tithable in the coming year. R. Aqiba, however, says that the words "when thou hast gathered in thy corn and thy wine" lead us to infer that as corn and grapes grow chiefly by means of rain, and are tithed as last year's products, so all things that grow chiefly by rain are tithed as belonging to the past year; but as herbs grow even by watering, they are tithed as the next year's products. In what case is this difference of opinion applicable? Said R. Abbuha: In the cases of onions and Egyptian beans; for a Mishna says: Onions and Egyptian beans which have not been watered for thirty days before New Year's Day are tithed as last year's products, and are allowed to be used during the sabbatic year, but if they have been watered, then they are prohibited during the sabbatic year and are tithed as next year's products.

"On the first of Shebhat is the New Year for trees." Why

so? Said R. Elazar, in the name of R. Oshyia, because at that date the greater part of the early rains have fallen, although the greater part of the Tequpha is yet to come. The rabbis taught: It once happened that R. Aqiba picked the fruit of a citron tree on the first of Shebhat, and gave two tithes of them, one according to the school of Shammai and one in accordance with the school of Hillel. Says R. Jose b. Jehudah: Nay, Aqiba did not do this because of the school of Shammai or the school of Hillel, but because R. Gamaliel* and R. Eliezer were accustomed to do so. Did he not follow the practice of Beth Shammai because it was the first of Shebhat? Said R. Hanina, and some say R. Hanania: The case here cited was one of a citron tree, the fruit of which was formed before the fifteenth of last Shebhat, and he should have given the tithe of it even before the present first of Shebhat, but the case happened to be as cited. But Rabhina said: Put the foregoing together and read the (words of R. Jose) as follows: It did not happen on the first of Shebhat, but on the fifteenth, and he did not follow the regulations of the school of Hillel or the school of Shammai, but the custom of R. Gamaliel and R. Eliezer. Rabba bar Huna said: Although R. Gamaliel holds that a citron tree is tithable from the time it is picked, as is the case with "herbs," nevertheless the new year for tithing it is in Shebhat. R. Johanan asked R. Janai: "When is the beginning of a year for (the tithe on) citrons?" And he said, "Shebhat." "Dost thou mean," said he, "the month Shebhat as fixed by the lunar year or by the solar year (from the winter solstice)?" "By the lunar year," he replied. Rabha asked R. Na'hman, according to another version R. Johanan asked R. Janai: "How is it in leap years (when there are thirteen lunar months)?" And he said: "Shebhat, as in the majority of years." It was taught: R. Johanan and Resh Lakish both say that a citron that has grown in the sixth year and is unpicked at the entrance of the sabbatic year is always considered the product of the sixth year. When Rabhin came (from Palestine) he said, in the name of R. Johanan: A citron that was as small as an olive in the sixth year, but grew to the size of a (small) loaf of bread during the sabbatic year, if one used it without separating the tithe he is culpable because of *Tebhel*.†

* The opinion of R. Gamaliel is stated a little further on.

† Produce of which the levitical and priestly tithe has not been yet separated, and which must not be used.

The rabbis taught: A tree whose fruits formed before the fifteenth of Shebhat must be tithed as the product of the past year, but if they formed after that, they are tithed during the coming year. Said R. Nehemiah: This applies to a tree that looks as if it bore two crops; *i.e.*, whose fruits do not ripen all at once, but at two times. But in the case of a tree that produces but one crop, as, for example, the palm, olive, or carob, although their fruits may have formed before the fifteenth of Shebhat, they are tithed as the products of the coming year. R. Johanan remarked that in the case of the carob people follow the opinion of R. Nehemiah. Resh Lakish objected to R. Johanan: Since white figs take three years to grow fully ripe, must not the second year after the sabbatic year be regarded as the sabbatic year for them? R. Johanan was silent. R. Abba the priest said to R. Jose the priest: I am surprised that R. Johanan should have accepted this query of Resh Lakish without comment.

MISHNA: At four periods in each year the world is judged: on Passover, in respect to the growth of grain; on Pentecost, in respect to the fruit of trees; on New Year's Day all human beings pass before Him (God) as sheep before a shepherd, as it is written [Psalms, xxx. 9]: "He who hath fashioned all their hearts understandeth all their works";* and on Tabernacles judgment is given in regard to water (rain).

GEMARA: What grain (does the divine judgment affect on the Passover)? Does it mean the grain now standing in the field (about to be reaped)? At what time, then, were all the accidents that have happened to it until that time destined (by divine will)? It does not mean standing grain, but that just sown. Shall we say that only one judgment is passed upon it? Have we learned in a Boraitha: If an accident or injury befall grain before Passover it was decreed on the last Passover, but if it happen (to the same grain) after Passover, it was decreed on the immediately preceding Passover; if an accident or misfortune befall a man before the Day of Atonement, it was decreed on the previous Day of Atonement, but if it happened after the Day of Atonement it was decreed on the preceding Day of Atonement? Answered Rabha: Learn from this that judgment is passed twice (in one year, before the sowing and before the reaping). Therefore said Abayi: When a man sees that the

* *Vide* Introduction.

grain which ripens slowly is thriving, he should as soon as possible sow such grain as ripens quickly, in order that before the time of the next judgment it may already have begun to grow.

With whose opinion does our Mishna agree? Not with that of R. Meir, nor with that of R. Jehudah, nor with that of R. Jose, nor with that of R. Nathann, nor with the teaching of the following Boraitha: All are judged on New Year's Day, and the sentence is fixed on the Day of Atonement. So says R. Meir. R. Jehudah says all are judged on New Year's Day, but the sentence of each is confirmed each at its special time—at Passover for grain, at Pentecost for the fruit of trees, at Tabernacles for rain, and man is judged on New Year's Day, and his sentence is confirmed on the Day of Atonement. R. Jose says man is judged every day, as it is written [Job, vii. 18]: "Thou rememberest him every morning"; and R. Nathan holds man is judged at all times, as it is written [ibid.]: "Thou triest him every moment." And if you should say that the Mishna agrees with the opinion of R. Jehudah, and that by the expression "judgment" it means the "confirmation of the decree," then there would be a difficulty about man. Said Rabha: The Tana of our Mishna is in accordance with the school of R. Ishmael of the following Boraitha: At four periods is the world judged: at Passover, in respect to grain; on Pentecost, in regard to the fruit of trees; on Tabernacles, in respect to rain, and on New Year's Day man is judged, but the sentence passed upon him is confirmed on the Day of Atonement, and our Mishna speaks of the opening of judgment only (and not the final verdict).

R. Hisda asked: "Why does not R. Jose quote the same passage as R. Nathan in support of his opinion?" Because "trying" is not judging. But does not "remembering" also convey the same idea? Therefore said R. Hisda: R. Jose bases his opinion on another passage; viz. [I Kings viii. 59]: "That God may maintain the cause of His servant and the cause of His people Israel *every day*." Said R. Joseph: According to whom do we pray nowadays for the sick and for faint (scholars) every day? According to R. Jose (who maintains that man is judged every day).

We have learned in a Boraitha: R. Jehudah taught in the name of R. Aqiba: Why does the Torah command [Lev. xxiii. 10] a sheaf of the first fruits to be brought on the Passover? Because Passover is the period of judgment in respect to grain, and the Holy One, blessed be He, said: "Offer before Me the

first sheaf of produce on Passover, so that the standing grain may be blessed unto you.” And why the two loaves [Lev. xxiii. 17] on the Pentecost? Because that is the time when judgment is passed on the fruit of trees, and the Holy One, blessed be He, said: “Bring before Me two loaves on the Pentecost, so that I may bless the fruits of the tree.” Why was the ceremony of “the outpouring of water” (on the altar) performed on the Feast of Tabernacles? Because He said: “Perform the rite of ‘the outpouring of waters,’ that the rains shall fall in due season.” And He also said: “Recite before Me on New Year’s Day the Malkhioth, Zikhronoth, and Shophroth,* the Malkhioth, that you proclaim Me King; the Zikhronoth, that your remembrance for good may come before Me.” And how (shall this be done)? By the sounding of the cornet.

R. Abbahu said: “Why is the cornet made a ram’s horn?” The Holy One, blessed be He, said: “Sound before Me on a cornet made of a ram’s horn, that I may remember, for your sake, the offering of Isaac, the son of Abraham [*vide* Gen. xxii. 13], and I shall consider even *you* as worthy, as if ye had shown an equal readiness to sacrifice yourselves to Me.”

R. Itz’hak said: A man is judged only according to his deeds at the time of sentence, as it is written [Gen. xxi. 17]: “God heard the voice of the lad, as he *then* was,” and the same rabbi also remarked: Three circumstances cause a man to remember his sins; viz., when he passes by an insecure wall, when he thinks deeply of the significance of his prayer, and when he invokes divine judgment on his neighbor, for R. Abhin says: Whoso calls down divine judgment on his neighbor is punished first, as we find in the case of Sarah, who said [Gen. xvi. 5] to Abraham: “I suffer wrong through thee, may the Lord judge between me and thee.” And shortly after we read (that she died): “And Abraham came to mourn for Sarah and to weep for her” [Gen. xxiii. 2]. (Naturally this only applies to cases where appeal could have been made to a civil court, and the invocation of divine judgment was not necessary.†) R. Itz’hak

* These are the divisions of the Additional Service for the New Year’s Day. The Malkhioth consist of ten scriptural passages in which God is proclaimed King. The Zikhronoth consist of an equal number of scriptural passages in which Divine remembrance is alluded to. The Shophroth are a similar series of selections in which the Shophar (cornet) is referred to. In Chapter IV. of this tract there is a discussion as to the composition of these selections. We retain the Hebrew names, because we feel that no translation or paraphrase will adequately express what they mean.

† This is taken from Tract Baba Kama.

preached: Four things avert the evil decree passed (by God) on man—viz.: charity, prayer, change of name, and improvement. "Charity," as it is written [Prov. x. 2]: "Charity delivereth from death." "Prayer," in accordance with [Psalms, cvii. 19]: "They cry unto the Lord when they are in distress, and He saveth them out of their afflictions." "Change of name," as it is written [Gen. xvii. 15]: "As for Sarai, thy wife, thou shalt not call her name Sarai, but Sarah shall her name be," and the text continues by saying [ibid. 16]: "Then will I bless her, and give thee a son also of her." "Improvement," we deduce from Jonah, iii. 10: "And God saw their works that they had turned from their evil ways," and immediately adds: "And God bethought Himself of the evil He had said He would do unto them, and He did it not." Some add to these four a fifth, change of location, as it is written [Gen. xii. 1 and 2]: "And God said to Abraham, get thee out from thy land" (and afterwards), "I will make of thee a great nation."

R. Kruspedai said in the name of R. Johanan: Three books are opened on New Year's Day: one for the utterly wicked, one for the wholly good, and one for the average class of people. The wholly righteous are at once inscribed, and life is decreed for them; the entirely wicked are at once inscribed, and destruction destined for them; the average class are held in the balance from New Year's Day till the Day of Atonement; if they prove themselves worthy they are inscribed for life, if not they are inscribed for destruction. Said R. Abhin: Whence this teaching? From the passage [Psalms, lxix. 29]: "Let them be blotted out of the book of the living, and they shall not be written down with the righteous."

We have learned in a Boraitha: The school of Shammai said: There are three divisions of mankind at the Resurrection: the wholly righteous, the utterly wicked, and the average class. The wholly righteous are at once inscribed, and life is decreed for them; the utterly wicked are at once inscribed, and destined for Gehenna, as we read [Dan. xii. 2]: "And many of them that sleep in the dust shall awake, some to everlasting life, and some to shame and everlasting contempt." The third class, the men between the former two, descend to Gehenna, but they weep and come up again, in accordance with the passage [Zech. xiii. 9]: "And I will bring the third part through the fire, and I will refine them as silver is refined, and will try them as gold is tried; and he shall call on My name, and I will answer him."

Concerning this last class of men Hannah says [I Sam. ii. 6]: "The Lord causeth to die and maketh alive, He bringeth down to the grave and bringeth up again." The school of Hillel says: The Merciful One inclines (the scale of justice) to the side of mercy, and of this third class of men David says [Psalms, cxvi. 1]: "It is lovely to me that the Lord heareth my voice"; in fact, David applies to them the Psalm mentioned down to the words, "Thou hast delivered my soul from death" [ibid. 8].

Transgressors of Jewish birth and also of non-Jewish birth, who sin with their body descend to Gehenna, and are judged there for twelve months; after that time their bodies are destroyed and burnt, and the winds scatter their ashes under the soles of the feet of the righteous, as we read [Mal. iii. 23]: "And ye shall tread down the wicked, for they shall be as ashes under the soles of your feet"; but as for Minim, informers and disbelievers, who deny the Torah, or Resurrection, or separate themselves from the congregation, or who inspire their fellow-men with dread of them, or who sin and cause others to sin, as did Jeroboam the son of Nebat and his followers, they all descend to Gehenna, and are judged there from generation to generation, as it is said [Isa. lxvi. 24]: "And they shall go forth and look upon the carcasses of the men who have transgressed against Me; for their worm shall not die, neither shall their fire be quenched." Even when Gehenna will be destroyed, they will not be consumed, as it is written [Psalms, xlix. 15]: "And their forms wasteth away in the nether world," which the sages comment upon to mean that their forms shall endure even when the grave is no more. Concerning them Hannah says [I Sam. ii. 10]: "The adversaries of the Lord shall be broken to pieces." R. Itz'hac b. Abhin says: "Their faces are black like the sides of a caldron"; while Rabha remarked: "Those who are now the handsomest of the people of Me'huzza will yet be called the children of Gehenna."

What is meant by Jews who transgress with their *body*? Says Rabh: The *Qarqaphtha* (frontal bone) on which the phylacteries are not placed.* And who are meant by non-Jews who

* There were sects at that time who did not wear the phylacteries on the frontal bone, but on other places. The people here referred to are those mentioned in Mishna Megillah III. 5. Those who do not wear phylacteries at all are, under no circumstances, included under the head of these transgressors. (*Vide* Tosaphoth, ad loc.) For fuller information the reader is referred to our "The History of Amulets, Charms, and Talismans" (New York, 1893).

transgress with the *body*? Those guilty of the sin (of adultery). Who are those who inspire their fellowmen with dread of them? A leader of a community who causes the people to fear him overmuch without furthering thereby a high purpose. R. Jehudah said in the name of Rabh: No such leader will ever have a learned son, as it is said [Job, xxxvii. 24]: "Men do therefore fear him: he will never see (in his family) any wise of heart."

The school of Hillel said above: He who is full of compassion will incline the scale of justice to the side of mercy. How does He do it? Answered R. Eliezer: He *presses* on (the side containing our virtues), as it is said [Micah, vii. 19]: "He will turn again, he will have compassion upon us, he will suppress our iniquities." R. Jose says: He *lifts off* (the sins), as it is said [ibid. 18]: "He pardoneth iniquity and forgiveth transgression." And it was taught in the school of R. Ishmael that this means that He removes each first sin (so that there is no second), and this is the correct interpretation. "But," Rabha remarked, "the sin itself is not blotted out, so that if one be found in later times with more sins (than virtues), the sin not blotted out will be added to the later ones; whoso treats with indulgence one who has wronged him (forms an exception to this rule), for he will have *all* his sins forgiven, as it is said [Micah, vii. 18]: "He pardoneth iniquity and forgiveth transgression." From whom does He remove iniquity? From him who forgiveth transgression (committed against him by his neighbor).

R. Huna ben R. Jehoshua fell sick, and R. Papa went to visit him. The latter saw that the end was near, and said to those present: "Make ready his provisions (shrouds)." Finally he recovered, and R. Papa was ashamed to see him. "Why did you think him so sick?" said they. "He was so, indeed," he replied, "but the Holy One, blessed be He, said that since he was always indulgent (with every one), he shall be forgiven," as it is written: "He pardoneth iniquity and forgiveth transgression." From whom does He remove iniquity? From him who forgiveth transgression.

R. A'h the son of Hanina said: The phrase "of the remnant of his inheritance" [Micah, vii. 18] is like unto a fat tail (of an Arabian sheep) with a thorn through it (that will stick those that lay hold of it); (for He forgives) the *remnant* of His inheritance, and not all His inheritance. What is meant by rem-

nant? Only those who deport themselves like a remnant (*i.e.*, modestly). R. Huna points out a contradiction in these passages. It is written [Psalms, cxlv. 17]: "The Lord is *just* in all his ways," and in the same passage, "and *pious* in all his works." It means, in the beginning He is only *just*, but in the end He is *pious* (when He finds that strict justice is too severe on mankind He tempers justice with piety or mercy). R. Elazar also points out a contradiction. It is written [Psalms, lxii. 12]: "Unto thee, O Lord, belongeth *mercy*;" and again, "thou renderest to every man *according to his work*." This can be explained as the above: In the beginning He rewards every man according to his works, but in the end He is merciful. Ilphi or Ilpha points out a similar contradiction in [Ex. xxxiv. 6], where it is written "abundant in *goodness* and *truth*," and gives a similar explanation.

It is written [Ex. xxxiv. 6]: "And the Lord passed by before him and proclaimed." R. Johanan said: Had this passage not been written, it would have been impossible to have said it, for it teaches us that the Holy One, blessed be He, wrapped Himself, as does a minister who recites the prayers for a congregation, and pointing out to Moses the regular order of prayer, said to him: Whenever Israel sins, let him pray to Me, after this manner, and I shall pardon him.

"The Lord, the Lord," (these words mean) I am the same God before a man sins as I am after he sins and does repentance. "God, merciful and gracious." R. Jehudah said (concerning these words): The covenant made through the thirteen attributes [Ex. xxxiv.] will never be made void, as it is said [ibid. 10]: "Behold *I* make a covenant."

R. Johanan said: Great is repentance, for it averts the (evil) decreed against a man, as it is written [Isa. vi. 10]: "Obdurate will remain the heart of this people, . . . nor hear with their ears, nor understand with their hearts, so that they *repent* and be *healed*." R. Papa asked Abayi: Do not these last words, perhaps, mean before the (evil) decree has been pronounced? It is written, he replied, "be healed." What is that which requires healing? I can only say that against which judgment has been pronounced. An objection was raised from the following Boraitha: He who repents between (New Year's Day and the Day of Atonement) is forgiven, but if he does not repent, even though he offered the choicest sacrifice, he is not pardoned. This presents no difficulty; in the one case it refers to

(the sins of) an individual, and in the other to (those of) a community. Another objection was raised. Come and hear. It is written [Psalms, cvii. 23-28]: "They that go down to the sea in ships, that do business in great waters; these see the works of the Lord . . . for he commandeth, and raiseth the stormy wind, which lifteth up the waves thereof, they reel to and fro, and stagger like a drunken man, . . . then they cry unto the Lord in their trouble, and he bringeth them out of their afflictions; oh, that men would praise the Lord for his goodness," etc. Signs are given, such as the words "but" and "only" in the Scriptures (which intimate limiting qualifications), to indicate that if they cried before the decree was pronounced, only then would they be answered; but if after, they are not answered. (Would not this be a contradiction to the words "to those of a community"?) Nay, for those on a ship are not a community (but are considered as individuals).

Come and hear. The proselyte Beluria (a woman) asked R. Gamaliel (concerning the following apparent contradiction): It is written in your Law [Deut. 17]: "The Lord who regardeth not persons" (*literally*, who lifteth not up countenances); and it is also written [Numb. vi. 26]: "May the Lord lift up his countenance." R. Jose, the priest, joined her, and said to her: "I will tell thee a parable. To what may this be compared? To one who lent money to his neighbor, and set a time for its repayment before the king, and (the borrower) swore by the king's life (to repay it on time). The time arrived, and he did not pay, and he came to appease the king. Said the king to him, 'I can forgive you only your offence against me, but I cannot forgive you your offence against your neighbor; go and ask *him* to forgive you.' " So also here; in the one place it means sins committed by a man against Himself (the Lord), but in the other, it means sins committed by one man against another. As to the decree pronounced against an individual, the Tanaim differ, however, as we may see from the following Boraitha: R. Meir used to say, of two who fall sick with the same sickness, and of two who enter a tribunal (for judgment) on similar charges, one may recover and one not, one may be acquitted and one condemned. Why should one recover and one not, and one be acquitted and one condemned? Because the one prayed and was answered, and one prayed and was not answered. Why should one be answered and the other not? The one prayed devoutly and was answered, the other did not pray

devoutly and therefore was not answered; but R. Elazar said it was not because of prayer, but because the one prayed *before*, and the other *after* the decree was pronounced. R. Itz'hak said: Prayer is helpful for man before or after the decree has been pronounced. Is it then so that the (evil) decree pronounced against a congregation is averted (through the influence of prayer)? Does not one scriptural verse [Jer. iv. 14] say: "Wash thine heart from wickedness," and another states [ibid. ii. 22]: "For though thou wash thee with nitre, and take thee much soap, yet would the stain of thine iniquity remain before me." Shall we not say in the one case it means *before*, and in the other *after* the sentence has been pronounced? Nay, both refer (to a time) after the decree has been pronounced and there is no contradiction, for in one case it refers to a decree issued with an oath, and in the other to a decree pronounced without an oath, as R. Samuel b. Ami said in the name of R. Jonathan: Whence do we know that a decree, pronounced with an oath, cannot be averted? From the passage [I Sam. iii. 14]: "Therefore I have sworn unto the house of Eli, that the iniquity of Eli's house shall not be purged with sacrifice nor meat-offering forever." Rabha, however, said: Even in such a case it is only through *sacrifices* that sin cannot be purged, but by (the study of) the Law it may be; and Abayi said: With sacrifice and offering it cannot be purged, but by (the study of) the Law, and by active benevolence it can. (Abayi based this opinion on his own experience, for) he and (his master) Rabba were both descendants of the house of Eli; Rabba, who only studied the Law, lived forty years, but Abayi, who both studied the Torah and performed acts of benevolence, lived sixty years. The rabbis tell us also: There was a certain family in Jerusalem whose members died at eighteen years of age. They came and informed R. Johanan ben Zakkai of their trouble. Said he: "Perhaps you are descendants of Eli, of whom it is said, 'all the increase of thy house shall die in the flower of their age'" [I Sam. ii. 33]; "Go, then, study the Law, and live." They went and studied, and they lived, and they called that family R. Johanan's after his name. R. Samuel ben Inya says in the name of Rabh: Whence do we know that if the decree against a community is even confirmed, it may nevertheless be averted? From [Deut. iv. 7] where it is written: "As the Lord, our God, in *all* things that we call upon him for;" (but how can you harmonize that with the passage) [Isa. lv. 6]: "Seek ye the Lord

while he may be found" ? The latter passage refers to an individual, the former to a community. When is that time that He will be found even by an individual ? Answered Rabba bar Abbahu : " During the ten days, from New Year's Day till the Day of Atonement."

" *On New Year's Day all the inhabitants of the world pass before him, Kibhne Maron (like sheep).*" What does the Mishna mean by these last two words ? " Like sheep," as they are translated in Aramaic, but Resh Lakish says they mean " as the steps of the Temple" (*i.e.*, narrow, so that people ascended them one by one). R. Jehudah, however, said in the name of Samuel : (They mean) " like the armies of the house of David" (which were numbered one by one). Said Rabba bar Bar Hana in the name of R. Johanan : " Under any circumstances they are mustered at a glance. And R. Na'hman bar Itz'hak said : Thus also we understand the words of our Mishna : " He that fashioned all their hearts alike" [Psalms, xxxiii. 15], *i.e.*, the Creator, sees all their hearts (at a glance) and (at once) understands all their works.

MISHNA: Messengers were sent out * for the following six months: for Nissan, on account of the Passover; for Abh, on account of the fast; for Elul, on account of the New Year; for Tishri, on account of appointing the order of the (remaining) festivals; † for Kislev, on account of the Feast of Dedication; for Adar, on account of the Feast of Passover; also for Iyar, when the Temple was in existence, on account of the minor (or second) Passover. ‡

GEMARA: Why were they not also sent out for Tamuz and Tebheth (in which months there are also fasts) ? Did not R. Hana bar Bizna say in the name of R. Simeon the pious: What is the meaning of the passage [Zach. viii. 19]: " Thus saith the Lord of hosts; the fast of the fourth, and the fast of the fifth, and the fast of the seventh, and the fast of the tenth shall become in the house of Judah joy and gladness," etc., that they are called fasts, and also days of joy and gladness ? Are we not to understand that only in the time of peace (cessation of persecution) they shall be for joy and gladness, but in the time when there was not peace they shall be fasts ? Said

* See *Slekaim* I. 1.

† *e.g.* Tabernacles. This was necessary since the Beth Din might have made the month intercalary.

‡ *Vide*, Numb. ix. 10, 11.

R. Papa: It means this: When there was peace, these days should be for joy and gladness; in the time of persecution they shall be fasts; in times when there are neither persecution nor peace people may fast or not, as they see fit. If that is so, why then (should messengers have been sent out) on account of the fast of Abh? Said R. Papa: The fast (ninth day) of Abh is different, since many misfortunes occurred on that day, as the master said: "On the ninth of Abh, the first and second Temples were destroyed, Bether was captured, and the city of Jerusalem was razed to the ground."

We have learned in a Boraitha: R. Simeon said: There are four matters that R. Aqiba expounded, but which I interpret differently; "the fast of the fourth" means the ninth of Tamuz, on which the city was broken in, as it is written [Jer. lii. 6, 7]: "In the fourth, in the ninth day of the month . . . the city was broken in." What does he mean by fourth? The fourth of the months. "The fast of the fifth," means the ninth of Abh, on which the Temple of our Lord was burnt; and what does he mean by calling it fifth? The fifth of the months. "The fast of the seventh" means the third of Tishri, the day on which Gedaliah, the son of Ahikam, was slain (and we fast), because the death of the righteous is equal to the loss of the house of our Lord. And what does he mean by calling it the seventh? The seventh of the months. "The fast of the tenth," means the tenth of Tebeth, the day on which the king of Babylon set himself against Jerusalem, as it is written [Ezek. xxiv. 1, 2]: "Again in the ninth year, in the tenth month, in the tenth day of the month the word of the Lord came unto me saying, Son of man, write thee the name of the day, even of this same day; the king of Babylon set himself against Jerusalem." And what does he mean by calling it the tenth? The tenth of the months, and actually this last event should have been placed first (since it occurred first). And why is it placed here last in order? To mention the months in their regular order. Said R. Simeon: I, however, do not think so, but thus: "The fast of the tenth" means the fifth of Tebeth, on which day the news came to the exiles that the city was smitten, as it is written [Ezek. xxxiii. 21]: "And it came to pass in the twelfth year of our captivity, in the tenth (month), in the fifth day of the month, that one that had escaped out of Jerusalem came to me, saying, The city is smitten," and they held the day on which they received the news equal to the day (on which the

Temple) was burnt. And it seems to me that my opinion is more satisfactory, for I speak of the first, first, and of the last, last; while he speaks of the last, first, and of the first, last; he mentions them in the order of the months, while I mention them in the order in which the calamities occurred.

It was taught: Rabh and R. Hanina say: The Rolls of Fasts (which contained the names of minor holidays on which it was prohibited to fast) is annulled, but R. Johanan and R. Jehoshua ben Levi say: "It is not." When Rabh and R. Hanina say that it is annulled they mean: In the time of peace the (fast) days are days of joy and gladness, but in the time of persecution they are fast days, and so also with other (days mentioned in the Rolls of Fasts); and when R. Johanan and R. Jehoshua ben Levi say it is not annulled (they mean) that those (four fasts mentioned in Zachariah) the Bible makes dependent on the rebuilding of the Temple; but those (mentioned in the Rolls of Fasts) remain as they are appointed.

R. Tobi b. Matana objected: In the Rolls of Fasts it is said that on the twenty-eighth of (Adar), the good news came to the Jews that they need no longer abstain from studying the Law, for the king (of Syria had earlier) issued a decree, forbidding them to study the Law, or to circumcise their sons, and compelling them to desecrate their Sabbath. What did Jehudah b. Shamua and his friends do? They went and took counsel of a certain matron, whose house the celebrated people of the city frequented. Said she to them, "Go and cry aloud at night." They did as she advised and cried aloud, "Oh, heavens! Are we not all brethren? Are we not all the children of one Father? Are we not all the children of one mother? Why should we be treated differently from other nations, and from all people who speak other languages inasmuch as ye issue such cruel edicts against us?" The decrees were annulled, and the day (on which this happened) they appointed a holiday. Now if it be true that the Rolls of Fasts has been annulled (*i.e.*, the former [feasts] have been all abrogated), may then new ones be added? There is a difference of opinion among Tanaim on this question, as we have learned in the following Boraitha: The days recorded in the Rolls of Fasts, whether during or after the existence of the Temple. are not permitted (to be kept as fasts), so said R. Meir; R. Jose, however, said, so long as the Temple stood it was not permissible (to fast on them) because they were days of joy, but since the Temple fell it is allowed because they are

days of mourning. One rule says that they are abrogated, but another rule says they are not abrogated. There is a question here caused by one rule contradicting the other. In the latter case it refers to the Feasts of Dedication and Esther (which are never to be abrogated), and in the former case to all other (minor feast) days.

"*For Elul on account of New Year's Day, and for Tishri on account of appointing the order of the (remaining) festivals.*" Since (the messengers) were sent out on account of Elul, why need they go again on account of Tishri? Shall we say because (the Beth Din) desired to proclaim Elul an intercalary month? (That cannot be) for did not R. Hanina bar Kahana say in the name of Rabh: Since the time of Ezra we have not discovered that Elul was an intercalary month? We have not discovered it, because it was not necessary (to make it so). But if it should be necessary, shall we make it an intercalary month? This would disturb the position of New Year's Day. It is better that the position of New Year's Day alone should be disturbed than that all the holidays should be disarranged. And it seems to be so, for the Mishna says that the messengers were sent for Tishri on account of appointing the order of the festivals.

"*And for Kislev on account of Hanuka, and for Adar on account of the Feast of Esther.*" But the Mishna does not say if it be a leap year, that the messengers were sent out in the second Adar on account of Purim. From this we learn that the Mishna is not in accordance with Rabbi of the following Boraitha: Rabbi says: "In a leap year messengers are sent out also in the second Adar on account of the Feast of Esther."

When Ula came (from Palestine) he said: They have made Elul an intercalary month, and he also said: "Do my Babylonian comrades know the benefit we have gained through it?" Because of what is this a benefit? "Because of herbs,"* said Ula. R. A'ha bar Hanina, however, said: "Because of dead bodies."† What difference is there between them? They

* By adding an intercalary day to Elul, the holiday (New Year or Atonement Day) was prevented from falling on Friday or Sunday, the intention being to separate the holiday by an intervening day from the Sabbath. Thus, herbs that were to be eaten fresh, and other foods, would not spoil, as they might, if kept from Thursday till after the Sabbath.

† A similar practice was followed with regard to the keeping of a dead body over the Day of Atonement and a Sabbath. Since it was impossible to keep the dead body two days, the Sabbath and the Atonement Day were separated by the means of the intercalated day.

differ concerning a holiday that falls immediately before or after the Sabbath (on the sixth or first day of the week). According to the one who says "because of herbs" we may add an intercalary day, but (it is not necessary) according to him who says "because of dead bodies," for we can employ non-Jews (to bury the dead for us on the holidays). If this is the case, why is this a benefit only for us (in Babylon); is it not also to the advantage of them (in Palestine)? Our climate is very hot, but theirs is not.

Is this really so? Did not Rabba bar Samuel teach: One might suppose that as we intercalate the *year* when necessary, so we intercalate the *month* when necessary? Therefore it is written [Ex. xii. 2]: "This month shall be unto you the first of the months," which means as soon as you see (the new moon) as on this occasion, you must *consecrate* the month (whether or not it is necessary to *intercalate* it). (How, then, could they intercalate Elul, which had always only twenty-nine days?) To *intercalate* it (when necessary) was permitted, but to *consecrate* it was not permitted, and Rabba's words should read: One might suppose that as it is permitted to *intercalate the year and the month* when necessary, so we may *consecrate the month* when necessary. Therefore it is written [Ex. xii. 2]: "This month shall be unto you," etc., which means only when the moon is seen as on this occasion, may you *consecrate* it.

Samuel said: "I can arrange the calendar for the whole captivity." Abba, the father of R. Simlai, said to him: "Does the master know that which a certain Boraitha teaches concerning the secret of the intercalary day; viz., whether the new moon appears before or after midday?" Answered he, "No." "Then, master," said he, "if thou dost not know this, there may be other things which thou dost not know." When R. Zera went (to Palestine) he sent back word to his comrade (saying): The evening and the morning (following) must both belong to the month (*i.e.*, when the old moon has still been seen after dark on the twenty-ninth day of the month, the thirtieth evening and following day belong to the closing month). And this is what Abba, the father of R. Simlai, meant: We calculate only the beginning of the new moon; if it began before midday, it is certain that it was seen close upon the setting of the sun, but if it did not begin before midday, it is certain that it did not appear close upon the setting of the sun. What difference does it make (in practice)? Answered R. Ashi, "to refute witnesses."

R. Zera said in the name of R. Na'hman, in every case of doubt (about the holidays), we post-date, but never ante-date.* Does this mean to say that (in a case of doubt concerning the exact day on which Tabernacles begins) we observe the fifteenth and sixteenth, but not the fourteenth. Let us keep the fourteenth also. Perhaps Abh and Elul have each only twenty-nine days? Nay, if two consecutive months should each have twenty-nine days, this would be announced.

Levi went to Babylon on the eleventh of Tishri. Said he: "Sweet is the food of Babylon on the great Day (of Atonement now being held) in Palestine." They said to him, "Go and testify." Answered he, "I have not heard from the Beth Din the words, 'It is consecrated' (and therefore I cannot testify)."

R. Johanan proclaimed: In every place that the messengers sent in Nissan reached, but that the messengers sent in Tishri cannot reach, they must observe two days for the holidays; and they make this restriction for Nissan lest people would do in Tishri as in Nissan.† Rabha used to fast two days for the Day of Atonement.‡ Once it happened that he was right (because the Day of Atonement fell one day later in Palestine than in Babylon). R. Na'hman was once fasting on the Day of Atonement, and in the evening a certain man came and said to him, "To-morrow will be the Day of Atonement in Palestine." He angrily quoted, "Swift were our persecutors" [Lam. iv. 19].

R. Na'hman said to certain sailors, "Ye who do not know the calendar take notice that when the moon still shines at dawn (it is full moon, and if it happens to be Nissan) destroy your leaven bread (for it is then the fourteenth day)."

* *i.e.* if there be a doubt about which day is the Passover or the feast of Tabernacles, the festival should be kept for two days; not, however, by *ante-dating* and keeping the *fourteenth* and fifteenth (of Nissan or Tishri) but by *post-dating* and keeping the fifteenth and *sixteenth* of either month.

† In Tishri, messengers might be delayed reaching distant places, to which they were sent to announce the date of the festival (Tabernacles), on account of New Year's Day and the Day of Atonement, on which they could not travel more than a short distance. In Nissan, however, they could, without delay, reach those places, and having announced the date of the festival, only one day was hallowed. Fearing that people might do, in regard to the Feast of Tabernacles, what they did with regard to Passover (*i.e.*, keep one day, even when in doubt about the date), the Rabbis instituted that both Tabernacles and Passover should have two days hallowed instead of one.

‡ He was in doubt whether the Beth Din in Palestine had made Elul intercalary or not, and as the messengers did not arrive until after the Day of Atonement, he fasted two days.

MISHNA: For the sake of (the new moon) of the two months, Nissan and Tishri, witnesses may profane* the Sabbath, because in these months the messengers went to Syria, and the order of the festivals was arranged; when, however, the Temple† was in existence, they might profane the Sabbath in any month, in order to offer the (new moon) sacrifice in its proper time.

GEMARA: For the sake of these two months and not more? This would be a contradiction to the Mishna above, which states: "For the sake of six months messengers were sent out"? Said Abayi: "This is to be explained thus: For all new moons the messengers were sent out while it was still evening, but for Nissan and Tishri they were not sent out until they heard from the lips of the Beth Din the words, 'It (the new moon or month) is consecrated.'"

The rabbis taught: Whence do we know that for them we may profane the Sabbath? From [Lev. xxiii. 4], which reads: "These are the feasts of the Lord, which ye shall proclaim in their seasons." Might not one suppose that as (witnesses) were permitted to profane the Sabbath until the new moons had been consecrated, so were messengers permitted to profane the Sabbath until (the festivals) were introduced? This the Law says: Therefore it is written: "Which ye shall proclaim," *i.e.*, you may profane the Sabbath in order to proclaim them, but not to introduce them.

"*When, however, the Temple was in existence,*" etc. The rabbis taught: Formerly they profaned the Sabbath for all (new moons), but after the destruction of the Temple, R. Johanan b. Zakkai said to them: "Have we any (new moon) sacrifice to offer? They then instituted that (witnesses) might profane the Sabbath only on account of Nissan and Tishri.

MISHNA: Whether the new moon had appeared clear to all or not (the witnesses) were permitted to profane the Sabbath on its account. R. Jose says: If it appeared clear to every one,‡ the Sabbath should not be profaned (by witnesses). It once happened that more than forty pair (of witnesses) were on the highway (to the Beth Din) on the Sabbath, when R. Aqiba

* To travel to Palestine in order to inform the Beth Din might have necessitated walking more than the distance permitted on the Sabbath.

† The Temple in Jerusalem.

‡ It might then be presumed that every one had seen it, and it was therefore unnecessary for any one to go to Palestine to announce it to the Beth Din.

detained them at Lydda. R. Gamaliel then sent word saying, "If thou thus detainest the people, thou wilt be the cause of their erring in the future" (*i.e.*, they may refuse to come and testify).

GEMARA: The rabbis taught: It is written [Eccles. xii. 10]: Koheleth sought to find out acceptable words," which signifies that Koheleth sought to enforce decrees without the aid of witnesses or warning. A heavenly voice was heard saying [Eccles. xii. 10]: "And that which was written uprightly, even words of truth" (which meant that) as it is written [Deut. xx. 15]: "Upon the evidence of two witnesses, etc., must a case be established," so should words of truth also be established by two witnesses.

"It once happened that more than forty pair (of witnesses) were on the highway (to Jerusalem) and R. Aqiba detained them," etc. We have learned in a Boraitha: R. Jehudah said: It would be a sin to say that R. Aqiba should have detained them. It was Shazpar, the superintendent of Gadar, who detained them, and (and when) R. Gamaliel (heard of it, he) sent and dismissed him.

MISHNA: When a father and son have seen the new moon, they must both go to the Beth Din, not that they may act together as witnesses, but in order that, should the evidence of either of them be invalidated, the other may join to give evidence with another witness. R. Simeon says: Father and son, and relatives in any degree may be accepted as competent witnesses to give evidence as to the appearance of the new moon. R. Jose says: It once happened that Tobias, the physician, his son, and his freed slave saw the new moon in Jerusalem (and when they tendered their evidence), the priests accepted his evidence and that of his son, but invalidated that of his freed slave; but when they appeared before the (Beth Din) they received his evidence, and that of his freed slave, but invalidated that of his son.

GEMARA: Said R. Levi: What is the reason for R. Simon's decree? It is written [Ex. xii. 1]: "And the Lord spake unto Moses and Aaron saying, This month shall be *unto you*," which means, this evidence shall be acceptable from you (although you are brothers). And how do the rabbis interpret it? They explain it as follows: This testimony shall be placed at your disposal (*i.e.*, the Beth Din's). Says Mar Uqba in the name of Samuel, the Halakha prevails according to R. Simeon.

MISHNA: The following are considered incompetent to be witnesses: gamblers with dice, usurers, pigeon breeders,* those who deal with the produce of the sabbatic year, and slaves. This is the rule: All evidence that cannot be received from a woman cannot be received from any of the above. One who has seen the new moon, but is unable to go (to give evidence), must be brought (if unable to walk) mounted on an ass, or even in a bed.† Persons afraid of an attack by robbers may take sticks with them;† and if they have a long way to go, it will be lawful for them to provide themselves with and carry their food.† Whenever (witnesses) must be on the road a day and a night, it will be lawful to violate the Sabbath to travel thereon, to give their evidence as to the appearance of the moon. For thus it is written [Lev. xxiii. 4]: "These are the feasts of the Lord, the holy convocations, which ye shall proclaim *in their appointed seasons*."

* Those who breed and train pigeons for racing.

† Even on the Sabbath, when under ordinary circumstances this might not be done.

CHAPTER II.

ORDINANCES ABOUT THE WITNESSES CONCERNING THE NEW MOON,
THE HOISTING OF THE FLAGS AND HOW IT WAS CONSECRATED
BY THE BETH DIN.

MISHNA: If the witness was unknown another was sent with him to testify to his character. In former times they would receive evidence (about the appearance of the moon) from any one; but when the Boëthusians commenced to corrupt the witnesses the rule was made, that evidence would only be received from those who were known (to be reputable).

GEMARA: What is meant by "another" (in the above Mishna)? Another pair (of witnesses). It seems also to be so from the statement of the Mishna. "If the witness was unknown? Shall we assume that it means one (witness)? Surely the evidence of one was not received, for this transaction was called "judgment" [Psalms, lxxxi.] (and two witnesses are necessary)? What, then, does "the witness" mean? That pair; so also here, "another" means another pair. Is, then, the evidence of one not accepted? Have we not learned in a Boraitha: It once happened that R. Neherai went to Usha on the Sabbath to testify (to the character) of one witness? He knew that there was one witness in Usha, and he went to add his evidence (and thus make two witnesses). If that is so, what does it tell us? One might suppose that, as there was a doubt (that he might not meet the other witness), he ought not to have profaned the Sabbath (by travelling to Usha as a single witness); therefore he comes to teach us (that even in such a case of doubt the Sabbath might be violated).

When Ula came (to Babylon, from Palestine), he said: They have already consecrated the new moon in Palestine. Said R. Kahana: (In such a case) not only Ula, who is a great man, is to be believed, but even an ordinary man. Why so? Because men will not lie about a matter that will become known to every one.

"*In former times they would receive evidence from any one,*" etc. The rabbis taught: How did the Boëthusians corrupt the

witnesses? They once sought to deceive the sages, and they bribed, with four hundred zuz (silver coins), two men, one belonging to their party and one to ours. The former gave his evidence and went out, to the latter they (the Beth Din) said, "Tell us what was the appearance of the moon?" "I went up," replied he, "to Maale Adumim,* and I saw it crouching between two rocks. Its head was like a calf, its ears like a goat, its horns like a stag, and its tail was lying across its thigh. I gazed upon it and shuddered, and fell backwards; and if you do not believe me, behold, here I have two hundred zuz bound up in my cloth." "Who induced you to do this?" they asked. "I heard," he replied, "that the Boëthusians wished to deceive the sages; so I said to myself, I will go and inform them, lest some unworthy person may (accept their bribe), and come and deceive the sages." Then said the sages: "The two hundred zuz may be retained by you as a reward, and he who bribed you shall be taken to the whipping-post (and be punished)." Then and there they ordained that testimony should be received only from those who were known (to be of good character).

MISHNA: Formerly bonfires were lighted (to announce the appearance of the new moon); but when the Cutheans† practised their deceit, it was ordained that messengers should be sent out. How were these bonfires lighted? They brought long staves of cedar wood, canes, and branches of the olive tree, and bundles of tow which were tied on top of them with twine; with these they went to the top of a mountain, and lighted them, and kept waving them to and fro, upward and downward, till they could perceive the same repeated by another person on the next mountain, and thus, on the third mountain, etc. Whence did these bonfires commence? From the Mount of Olives to Sartabha, from Sartabha to Grophinah, from Grophinah to Hoveran, from Hoveran to Beth Baltin; they did not cease waving the burning torches at Beth Baltin, to and fro, upward and downward, until the whole country of the captivity appeared like a blazing fire.

GEMARA: The rabbis taught: Bonfires were only lighted to announce the new moon that appeared and was consecrated at the proper time (after twenty-nine days). And when were they lighted? On the evening of the thirtieth day. Does this

* The name of a place between Jerusalem and Jericho.

† Samaritans.

mean to say that for a month of twenty-nine days the bonfires *were* lighted, but *not* for a month of thirty days? It should have been done for a month of thirty days, and not at all for a month of twenty-nine days. Said Abayi: That would cause the people a loss of work for two days (because they would wait to see if the bonfires would be lit or not and thus lose a second day).*

"*How were these bonfires lighted? They brought long staves of cedar wood,*" etc. R. Jehudah says: There are four kinds of cedars: the common cedar, the Qetros, the olive tree, and the cypress. Qetros says Rabh is (in Aramaic) Adara or a species of cedar. Every cedar, said R. Johanan, that was carried away from Jerusalem, God will in future times restore, as it is written [Isa. xli. 19]: "I will plant in the wilderness the cedar tree," and by "wilderness" He means Jerusalem, as it is written [Isa. lxiv. 10]: "Zion is (become) a wilderness." R. Johanan says again: Who studies the law, and teaches it in a place where there is no other scholar, is equal to a myrtle in the desert, which is very dear. The same says again: "Woe to the Romans, for whom there will be no substitution," as it is written [Isa. lx. 17]: "Instead of the copper, I will bring gold, and for iron I will bring silver, and for wood, copper, and for stones, iron." But what can He bring for R. Aqiba and his comrades (who were destroyed by Rome)? Of them it is written [Joel, iv. 21]: "I will avenge (but for) *their* (Aqiba's and his comrades') blood I have not yet avenged."

"*And whence did these bonfires commence?*" From Beth Baltin. What is Beth Baltin? "Biram," answered Rabh. What (does the Mishna) mean by the captivity? Said R. Joseph, "Pumbeditha." And how was it that the whole country looked like a blazing fire? We learn that each Israelite took a torch in his hand and ascended to the roof of his house.

MISHNA: There was a large court in Jerusalem called Beth

* The thirtieth day from the last New Moon was always New Moon, but in intercalary months the thirty-first day was also New Moon (second day). In the latter case the thirtieth day (first day of New Moon) belonged to the passing month, and the second day of New Moon was the first day of the new month. Bonfires were always lighted on the night of the thirtieth day, *i.e.*, on the night after New Moon; and if no bonfires were lighted then there were two days New Moon. In the case of the month of Elul they would, after twenty-nine days, observe New Year's Day. Now, if that month happened to be intercalary (*i.e.*, have thirty days) and bonfires would have been lighted, the next day would have had to be observed as New Year's Day again, and the people would consequently have lost a second day.—*Rashí*.

Ya'azeq, where all the witnesses met, and where they were examined by the Beth Din. Great feasts were made there for (the witnesses) in order to induce them to come frequently. At first they did not stir from there all day (on the Sabbath),* till R. Gamaliel, the elder, ordained that they might go two thousand ells on every side; and not only these (witnesses) but also a midwife, going to perform her professional duties, and those who go to assist others in case of conflagration, or against an attack of robbers, or in case of flood, or (of rescuing people) from the ruins (of a fallen building) are considered (for the time being) as inhabitants of that place, and may go (thence on the Sabbath) two thousand ells on every side. How were the witnesses examined? The first pair were examined first. The elder was introduced first, and they said to him: Tell us in what form thou sawest the moon; was it before or behind the sun? Was it to the north or the south (of the sun)? What was its elevation on the horizon? Towards which side was its inclination? What was the width of its disk? If he answered before the sun, his evidence was worthless. After this they introduced the younger (witness) and he was examined; if their testimony was found to agree, it was accepted as valid; the remaining pairs (of witnesses) were asked leading questions, not because their testimony was necessary, but only to prevent them departing, disappointed, and to induce them to come again often.

GEMARA: Do not the questions (asked by the Mishna), "was it before or behind the sun?" and "was it to the north or to the south?" mean the same thing? Answered Abayi: (The Mishna asks) whether the concave of the crescent was before or behind the sun, and if (the witness said) it was before the sun, his evidence was worthless, for R. Johanan says: What is the meaning of the passage [Job, xxv. 2]: "Dominion and fear are with him; he maketh peace in his high places?" It means that the sun never faces the concave of the crescent or the concave of a rainbow.

"What was its elevation on the horizon? Towards which side was its inclination?" In one Boraitha we have learned: If (the witness) said "towards the north," his evidence was valid, but if he said, "towards the south," it was worthless; in another Boraitha we have learned the reverse. It presents no difficulty;

* For if they had already traveled two thousand ells, they were prohibited from journeying more than four cubits more.

in the latter case it speaks of the summer, while in the former it refers to the winter.

The rabbis taught: If one (witness) said its elevation appeared about as high as two ox-goats and another said about as high as three, their testimony was invalid, but either might be taken in conjunction with a subsequent witness (who offered similar testimony). The rabbis taught (If the witnesses say): "We have seen the reflection (of the moon) in the water, or through a metal mirror, or in the clouds," their testimony is not to be accepted; or (if they say we have seen) "half of it in the water, and half of it in the heavens, or half of it in the clouds," their evidence carries no weight. Must they then see the new moon again (before their testimony can be accepted)? Said Abayi: "By this is meant that if the witnesses testify that they saw the moon accidentally, and they then returned purposely and looked for it, but they saw it not, their evidence is worthless." Why so? Because one might say they saw a patch of white clouds (and they thought it was the moon).

MISHNA: The chief of the Beth Din then said: "It (the new moon) is consecrated," and all the people repeated after him: "It is consecrated; it is consecrated." Whether the new moon was seen at its proper time (after twenty-nine days) or not, they used to consecrate it. R. Elazar b. Zadok said: If it had not been seen at its proper time it was not consecrated, because it had already been consecrated in heaven (*i. e.*, of itself).

GEMARA: Whence do we deduce this? Said R. Hyya b. Gamda quoting Rabbi, in the name of R. Jose b. Saul: It is written [Lev. xxiii. 44]: "Moses declared unto the children of Israel the feasts of the Lord," from which we deduce that (as Moses, who was the chief in Israel, declared the feasts to Israel, so also) the chief of the Beth Din should announce the words, "It is consecrated."

"*All the people repeated after him: It is consecrated; it is consecrated.*" Whence do we deduce this? Said R. Papa: It is written [Lev. xxiii. 2]: "Shall proclaim." "Othom" (them). Do not read "Othom," but Athem (ye)—*i. e.*, which ye, all the people, shall proclaim. R. Na'hman b. Itz'hak, however, said: We know it from the words [ibid.]: "*These* are my feasts," *i. e.*, (*these people*) shall announce my feasts. Why are the words "It is consecrated" repeated? Because in the scriptural verse just quoted we find it written "holy convocations"

(literally, announcements, and the minimum of the plural expression is two).

"R. Elazar b. Zadok said: If it had not been seen at its proper time it was not consecrated," etc. We have learned in a Boraitha, Pelimo* said: If the new moon appear at its proper time it was not customary to consecrate it, but if it appeared out of its proper time they used to consecrate it. R. Eliezer, however, said: In neither case would they consecrate it, for it is written [Lev. xxv. 10]: "And ye shall consecrate the fiftieth year;" *years* should be consecrated, but not *months*. Said R. Jehudah in the name of Samuel: "The halakha prevails according to R. Elazer b. Zadok. Said Abayi: There can be a support to this from the following Mishna, viz.: "If the Beth Din and all Israel saw the new moon (on the thirtieth day) and if the examination of the witnesses had already taken place, and it had become dark before they had time to announce 'It is consecrated,' the month (just passing) is intercalary." That (the month) is intercalary is mentioned (by the Mishna), but not that they said "It is consecrated." It is not clear that this is a support for Abayi's argument, for it was necessary to say that it was intercalary, or we would not have known that the next day was the intercalary day. One might have thought that, since the Beth Din and all Israel saw the new moon, it was apparent to all, and that the month does not become intercalary; therefore he teaches us that (nevertheless the month becomes intercalary).

MISHNA: R. Gamaliel had on a tablet, and on a wall of his upper room, illustrations of the various phases of the moon, which he used to show to the common people, saying: "Did you see the moon like this figure or like this?"

GEMARA: Is this permitted? Have we not learned in a Boraitha that the words "Ye shall not make anything with me" [Ex. xx. 20] mean, ye shall not make pictures of my ministers that minister before me, such as the sun, moon, stars or planets? It was different with R. Gamaliel, for others made it for him. But others made one for R. Jehudah, yet Samuel said to him: "Thou, sagacious one, destroy that figure!"† In the latter case the figure was embossed, and he was afraid that one might suspect the owner (of using it as an idol). Need one be

* The name of a Tana, a contemporary of Rabbi.

† Literally "put out the eyes of that figure!"

afraid of such suspicion? Did not that synagogue in Shephithibh of Neherdai have a statue (of the king), yet Rabh, Samuel and Samuel's father and Levi went there to pray and were not afraid of being suspected (of idolatry)? It is a different case where there are many. Yet R. Gamaliel was only one. Yea, but he was a prince, and there were always many with him; and if you wish you may say that he had them made for the purpose of instruction, and that which is written [Deut. xviii. 9], "thou shalt not learn to do," means but thou mayest learn, in order to understand and to teach.

MISHNA: It happened once that two witnesses came and said: We saw the moon in the eastern part of the heavens in the morning, and in the western part in the evening. R. Jo'hanan b. Nouri declared them to be false witnesses; but when they came to Yamnia, Rabbon Gamaliel received their evidence as valid. (On another occasion) two other witnesses came and said: We saw the moon on its proper day, but could not see it on the next evening of the intercalary day. R. Gamaliel accepted their testimony, but R. Dosa b. Harkhenas said: They are false witnesses; for how can they testify of a woman being delivered (on a certain day) when on the next day she appears to be pregnant? Then R. Jehoshua said unto him: I approve your opinion. Upon this R. Gamaliel sent him (R. Jehoshua) word, saying: "I order thee to appear before me on the Day of Atonement, according to *your* computation, with your staff and with money." R. Aqiba went to him (R. Jehoshua) and found him grieving. He then said to him: I can prove that all which R. Gamaliel has done is proper, for it is said: "These are the feasts of the Lord, holy convocations which ye shall proclaim," either at their proper time, or not at their proper time, only *their* convocations are to be considered as holy festivals. When he (R. Jehoshua) came to R. Dosa b. Harkhenas, the latter told him: "If we are to reinvestigate the decisions of the Beth Din of R. Gamaliel, we must also reinvestigate the decisions of all the tribunals of justice which have existed from the time of Moses till the present day; for it is said [Ex. xxiv. 9] Moses, Aaron, Nadab, Abihu, and seventy elders went up (to the Mount)." Why were not the names of the elders also specified? To teach us that every three men in Israel that form a Beth Din are to be respected in an equal degree with the Beth Din of Moses. Then did R. Jehoshua take his staff and money in his hand, and went to Yamnia, to

R. Gamaliel, on the very day on which the Day of Atonement would have been according to his computation, when R. Gamaliel arose and kissed him on the forehead, saying: "Enter in peace, my master and disciple! My master—in knowledge; my disciple—since thou didst obey my injunction."

GEMARA: We have learned in a Boraitha that R. Gamaliel said to the sages: "Thus it has been handed down to me from the house of my grandfather (Zamalill the elder) that sometimes the new moon appears elongated and sometimes diminished. R. Hyya saw the old moon yet on the morning of the twenty-ninth day, and threw clods of earth at it, saying: 'We should consecrate thee in the evening, and thou art seen now? Go, hide thyself!'"

Said Rabbi to R. Hyya: "Go to Entob and consecrate the month and send back to me as a password* 'David, the King of Israel, still lives.'"

The rabbis taught: Once it happened that the heavens were thick with clouds and the form of the moon was seen on the twenty-ninth of the month (of Elul), so that the people thought that New Year's Day should be then proclaimed, and they (the Beth Din) were about to consecrate it. Said R. Gamaliel to them: Thus it has been handed down to me by tradition, from the house of my grandfather, the consecration of the moon cannot take place at a period less than twenty-nine and a half days, two-thirds and .0052 (*i. e.*, seventy-three 'Halaqim) of an hour. On that self-same day the mother of Ben Zaza died and R. Gamaliel delivered a great funeral oration,† not because she specially deserved it, but in order that the people might know that the new moon had not yet been consecrated by the Beth Din.

"*R. Aqiba went to him, and found him grieving.*" The schoolmen propounded a question: "Who found whom grieving?" Come and hear. We have learned in a Boraitha: "R. Aqiba went to R. Jehoshua and found him grieving, so he asked him: 'Rabbi, why art thou grieving?' And he answered: 'Aqiba, I would rather lie sick for twelve months than to have this order issued for my appearance.' Rejoined R. Aqiba: 'Rabbi, permit me to say one thing in thy presence which thou thyself hast taught me.' R. Jehoshua granted him permis-

* This device was resorted to, because in the days of Rabbi, the Romans had prohibited the Jews, under penalty of death, to consecrate the moon.

† No funerals or funeral orations were or are permitted on the holidays

sion, and R. Aqiba proceeded: 'It is written [Lev. xxiii. 2, 4 and 37]: Three times 'shall proclaim Othom (them), which should, however, not be read Othom (them), but Athem (ye), which would make the verse read, "Ye shall proclaim." Now the threefold "*ye*" signifies that even if *ye* were deceived by false pretences and changed the day of the festivals, or even if *ye* did it purposely, or even if *ye* were held to be in error by others—once the dates had been established they must so remain.' With the following words R. Jehoshua answered R. Aqiba: Aqiba, thou hast comforted me; Aqiba, thou hast comforted me.'"

"*When he (Rabbi Jehoshua) came to R. Dosa b. Harkhenas,*" etc. The rabbis taught: The reason that the names of those elders are not mentioned, is, in order that one should not say: Is So-and-so like Moses and Aaron? Is So-and-so like Nadabh and Abihu? Is So-and-so like Eldad and Medad? (And how do we know that one should not ask thus?) Because, it is written [I Sam. xii. 6]: "And Samuel said unto the people the Lord that appointed Moses and Aaron" and in the same connection it is written [ibid. 11]: "And the Lord sent Jerubaal and Bedan and Jephtha and Samuel." [Jerubaal is Gideon; and why is he named Jerubaal? Because he strove against Baal. Bedan is Sampson; and why is he named Bedan? Because he came from Dan. Jephtha means just what it is (*i. e.*, he had no surname or attribute).] And it is also written [Ps. xcix. 6]: "Moses and Aaron among his priests, and Samuel among those who called upon his name." The sacred text regards the three common people equal with the three noblest, to teach us that Jerubaal was in his generation like Moses in his; Bedan in his generation was like Aaron in his; Jephtha in his generation was like Samuel in his generation. From all this one must learn that if even the commonest of the commoners is appointed leader by a community, he must be considered as the noblest of the nobility, for it is said [Deut. xvii. 9]: "And thou shalt come unto the priests, the Levites, and unto the judge that shall be in his days." (Why does the passage say "in those days"?) Can you imagine that one could go to a judge who was not in his days? (Surely not! But by these words Scripture teaches us that a judge is to be held "in his days" equal in authority with the greatest of his predecessors.) We find a similar teaching in Eccles. vii. 10: "Say not thou that the former days were better than these!"

"*He took his staff*," etc. The rabbis taught: (R. Gamaliel said to R. Jehoshua): Happy is the generation in which the leaders listen to their followers, and through this the followers consider it so much the more their duty (to heed the teachings of the leaders).

CHAPTER III.

REGULATIONS CONCERNING THE INTERCALATING OF THE MONTH—
THE CORNET, AND OF WHAT IT IS TO BE MADE—AND THE
PRAYERS OF THE NEW YEAR'S DAY.

MISHNA: If the Beth Din and all Israel saw (the moon on the night of the thirtieth day), or if the witness had been examined, but there was no time to proclaim "It is consecrated" before it had become dark, the month is intercalary. If the Beth Din alone saw it, two of its members should stand up and give testimony before the others, who shall then say "It is consecrated; it is consecrated." When three who formed a Beth Din saw it, two should stand up and conjoining some of their learned friends with the remaining one, give their testimony before these, who are then to proclaim "It is consecrated; it is consecrated," for one (member of a Beth Din) has not this right by himself alone.

GEMARA: "*If the Beth Din alone saw it,*" etc. Why so? Surely hearsay evidence is not better than the testimony of an eye-witness! Said R. Zera: "It refers to a case where they saw it at night (and on the next day they could not consecrate the new moon until they had heard the evidence of two witnesses)."

"*When three who formed a Beth Din, saw it, two should stand up and conjoining some of their learned friends with the remaining one,*" etc. Why so? Here also we may say, surely hearsay evidence is not better than the testimony of an eye-witness! And if you would say that this also means where they saw it at night, is this not, then, the same case? The case is the same, but the above statement is required because of the concluding words, "one (member of a Beth Din) has not the right by himself alone;" for it might be assumed, since in civil cases three (are required to constitute a Beth Din), but where he is well known (as a learned authority) one judge may act alone, so here we may consecrate (the new moon) on the authority of one judge; therefore, he teaches us (that three are required). Perhaps I should, nevertheless, say here (that one learned authority

is sufficient)? Nay, for there is no greater authority than Moses, our master, yet God said to him that Aaron should act with him, as it is written [Ex. xii. 1, 2]: "And the Lord spake unto Moses and Aaron, in the land of Egypt, saying: This month shall be unto *you* the beginning of months."

Does this mean to say that a witness may act as judge? And shall we assume that the above Mishna is not according to R. Aqiba, as on following Borâitha: If the members of the Sanhedrin saw a man commit murder, part of them may act as witnesses and part as judges, according to R. Tarphon; but according to R. Aqiba all of them are witnesses, and no witness (of a crime) may act as judge. It may be said that the Mishna is even according to R. Aqiba. In the latter instance R. Aqiba only refers to capital cases, for it is written [Numb. xxxv. 24, 25]: "Then the congregation shall judge . . . and the congregation shall deliver," and since they saw him commit murder, they will not be able to urge any plea in his favor; but here (concerning the new moon) even R. Aqiba assents (that a witness may act as judge).

MISHNA: Every kind of cornet may be used (on New Year's Day) except those made of cow-horn, because they are called "horn" (*qeren*), and not "cornet" (*shophar*). R. Jose said: Are not all cornets called "horn?" for it is said [Josh. vi. 5]: "And it came to pass that when they made a long blast with the horn of the Jobhel."

GEMARA: How comes it that the word Jobhel means ram? A Boraitha teaches: R. Aqiba says: When I went to Arabia I found they called a ram "Yubla."

The rabbis did not know the meaning of the word *Salseleho* in the passage [Prov. iv. 8]: "Salseleho and she shall exalt thee." One day they heard Rabbi's maidservant say to a certain man who was (conceitedly) playing with his hair, "How long wilt thou *mesalsel* (hold up) thy hair?" The rabbis did not know the meaning of the word *yehabhekha* in the passage [Ps. lv. 23]: "Cast *yehabhekha* (thy burden) upon the Lord." Said Rabba bar Bar Hana: "One day I went with a certain Arabian caravan merchant, and I was carrying a burden. Said he to me: 'Take down *yehabhekha* (thy burden) and put it on my camel.'"

MISHNA: The cornet used on the New Year was a straight horn of a wild goat; the mouth-piece was covered with gold. The two trumpets were stationed one on each side. The sound

of the cornet was prolonged, while that of the trumpet was short, because the special duty of the day was the sounding of the cornet. On the fast days two crooked ram's horns were used, their mouth-pieces being covered with silver, and the two trumpets were stationed in the middle between them. The sound of the cornet was shortened, while that of the trumpet was prolonged, because the special duty of the day was the sounding of the trumpets. The Jubilee and New Year's Day were alike in respect to the sounding (of the cornet) and the benedictions, but R. Jehudah says: "On the New Year we blow (a cornet) made of ram's horn, and on the Jubilee one made of the horn of a wild goat."

GEMARA: R. Levi said: It is a duty on New Year's Day and the Day of Atonement to use a bent cornet, but during the rest of the year a straight one. But have we not learned that the cornet used on the New Year must be the "*straight* horn of a wild goat?" He (R. Levi) said as R. Jehudah of the following Boraitha: On New Year's Day they used to blow (a cornet) made of a straight ram's horn, and on the Jubilees one made of wild goat's horn. What is their point of variance? R. Jehudah holds that on New Year's the more bent in spirit a man is, and on the Day of Atonement the more upright he is (in his confessions) the better; but R. Levi holds the more upright a man is on New Year's Day and the more bowed in spirit on the Fast Days, the better.

"*The mouth-piece was covered with gold.*" Does not a Boraitha teach, however, that if one covers the place to which the mouth was put the cornet may not be used; but if (he covers) another place it may be used? Answered Abayi: "Our Mishna also means a place to which the mouth was not put."

"*The two trumpets were stationed one on each side.*" Could the two sounds be easily distinguished? Nay; and therefore the sound of the cornet was prolonged, to indicate that the special duty of the day was the sounding of the cornet.

"*On the Fast-Days two crooked ram's horns were used, their mouth-pieces being covered with silver.*" Why was the cornet used in the one case covered with gold and in the other with silver? All (signals for) assemblies were blown on horns made with silver, as it is written [Numb. x. 2]: "Make unto thee two trumpets of silver . . . that thou mayest use them for the calling of the assembly," etc. R. Papa bar Samuel was about to follow the practice prescribed by the Mishna. Said Rabha to

him: "That was only customary so long as the Temple was in existence." A Boraitha also teaches that this applies only to the Temple; but in the country (outside of Jerusalem) in a place where they use the trumpet, they do not use the cornet, and *vice versa*. Such was the wont of R. Halaphta in Sepphoris and also of R. Hanina b. Teradion in Si'hni. When the matter was brought to the attention of the sages they said: "That was the custom only at the eastern gates or the Temple Mount." Rabha, according to others R. Jehoshua ben Levi, asked: "From which passage is this deduced?" From the passage [Psalms xcvi. 6]: "With trumpets and sound of cornet, make a joyful noise before the Lord, the King;" *i. e.*, before the Lord, the King (in the Temple) we need both the trumpets and the cornet, but not elsewhere.

"*The Jubilee, and the New Year were alike in respect to the sounding (of the cornet), and the benediction.*" R. Samuel bar Itz'hak said: According to whom do we nowadays pray: "This day celebrates the beginning of thy work, a memorial of the first day?" According to R. Eliezer, who says: The world was created at Tishri. R. Ina objected. Did we not learn in our Mishna that the Jubilee and New Year are alike in respect to the sounding (of the cornet), and the benedictions, and now how can that be so if we say "This day celebrates the beginning of thy work, a memorial of the first day," which is said on New Year, but not on the Jubilee? (That which we have learned in our Mishna that they are alike means) in every other respect but this.

MISHNA: It is unlawful to use a cornet that has been split and afterwards joined together; or one made of several pieces joined together. If a cornet had a hole that had been stopped up, and prevented (the production) of the proper sound, it must not be used; but if it does not affect the proper sound it may be used. If one should blow the cornet inside a pit, a cistern or a vat, and the sound of the cornet was (plainly) heard (by one listening to it) he will have done his duty (to hear the cornet on the New Year), but not if he heard only an indistinct sound. Thus also, if one should happen to pass by a synagogue, or live close by it, and should hear the cornet (on the New Year) or the reading of the Book of Esther (on the Feast of Esther), he will have complied with the requirements of the law, if he listened with proper attention, but not otherwise; and although the one heard it as well as the other, yet the difference (on which every-

thing depends) is that the one listened with proper attention and the other did not.

GEMARA: The rabbis taught: If a cornet was long and was shortened, it is valid; if one scraped it and reduced it to its due size it is valid; if one covered it on the inside with gold it is invalid; if on the outside and it changed the tone from what it originally was, it is invalid, but if not it is. If a cornet had a hole in it and it was closed up, and thereby prevented (the production) of the proper sound, it is invalid, but if not it is valid; if one placed one cornet inside another and the sound heard (by a listener) was produced from the inner one, he has fulfilled his duty, but if from the outer one, he has not.

"*Or one made of several pieces joined together.*" The rabbis taught: If one added to a cornet ever so small a piece, whether it be of the same kind of horn or not, it is invalid. If a cornet had a hole, whether one stopped it up with a piece of the same kind (of horn) or not, it is invalid. R. Nathan, however, said (only when repaired with material) *not* of the same kind it is invalid, but otherwise if of the same kind it is valid. (To which) R. Jehudah added: "That is, if the greater part of a cornet was broken." From this we can infer that if repaired with material of the same kind, although the greater part was broken, it is, nevertheless, valid.

"If one covered a cornet on the inside with gold it is invalid; if on the outside, and it changed the tone from what it originally was, it is not valid, but if not it is." If a cornet had been split lengthwise it is invalid, but if crosswise, yet enough remained with which to produce the sound, it is valid, but if not it is invalid. (And how much is that? R. Simeon b. Gamaliel explains it to be as much as we may hold in our closed hand, and yet on either side a portion is visible).^{*} If its tone was thin, or heavy, or harsh, it is valid, for all tones were considered proper in a cornet. The schoolmen sent a message to the father of Samuel: ("One has fulfilled his duty if he bored a hole in a horn and blew it. That is self-evident! for in every cornet a hole must surely be bored." Said R. Ashi: "If one bored a hole through the bony substance inside the horn (which ought to be removed), are we to suppose that one substance causes an

* The opinion of the editor is that this parenthesis is a fair illustration of the interpolations in the Talmud. The term *Piresh* is not Talmudical and was only used in later times. It has only been left here because the explanation happens to be correct.

interposition with another of the same nature (and that therefore it must not be used)?" Therefore they sent to say that this is no objection.

"*If one should blow the cornet inside a pit or a cistern,*" etc. R. Huna said: They taught this only in the case of those who stood at the pit's mouth, but those who were in the pit itself fulfill their duty. If one heard a part of (the required number of) the sounds of the cornet in the pit, and the rest at the pit's mouth, he has done his duty; but if he heard a part before the dawn of day, and the rest after the dawn, he has not. Said Abayi to him: Why in the latter case (should he not have done his duty, because he did not hear the whole of the sounds at the time when the duty should be performed), yet in the former case (he is considered to have done his duty) under similar circumstances? How can these cases be compared? In the latter case, *the night is not* the time of performing the obligation at all, while in the former case, *a pit is* a place where the duty may be performed for those who are in it! Shall we say that Rabba held: If one heard the end of the sounding (of the cornet) without having heard the beginning he did his duty, and from these words we must understand that if he heard the beginning without the end he has also done his duty? Come and hear. If one blew the first sound (Tekia) and prolonged the second (Tekia) as long as two, it is only reckoned as one; and (if Rabba's opinion is correct) why should he reckon it as two? (This is no question)! If he heard half the sounds he has done his duty, but when one blows one sound on the cornet we cannot consider it two halves.

Rabha says: One who vows to receive no benefit from his neighbor may nevertheless blow for him the obligatory sounds (of the cornet); one who vows refusal of any benefit from a cornet may blow on it the obligatory sounds. Furthermore, said Rabha: "One who vows to refuse any benefit from his neighbor may sprinkle on him the waters of a sin-offering in the winter, but not in the summer. One who vows to receive no benefit from a spring may take in it a legal bath in the winter, but not in the summer.

The schoolmen sent a message to the father of Samuel: "If one had been compelled to eat unleavened bread (on the first night of Passover, *i. e.*, he had not done so of his own accord) he has also done his duty." Who compelled him? Said R. Ashi: "Persians." Rabha remarked: From this statement we

can prove that if one plays a song on a cornet he does his duty. Is this not self-evident? The cases are similar. One might suppose that in the former case the law commanded him to *eat* (unleavened bread) and he *ate* it, but in the latter case the Torah speaks of "a *remembrance* of blowing the cornet" [Lev. xxiii. 24], and (when he plays a song he does not *remember* his duty for) he is engaged in a worldly occupation. Therefore he teaches us that even under such circumstances he *does* his duty.

To this an objection was raised. We have learned: If one who listened (to the sounds of the cornet) paid the proper attention, but he that blew the cornet did not, or *vice versa*, they have not done their duty until both blower and listener pay proper attention. This would be correct in the case where the blower, but not the listener, pays the proper attention, for it is possible that the listener imagines he hears the noise of an animal; but how can it happen that the listener should pay due attention, and the one who blows (the cornet) should not, except he was only playing a song (by which he does not do his duty)? (It is possible) if he only produced a dull sound (*i. e.*, and not, for example, a Tekia).

Said Abayi to him: "But now, according to thy conclusion (that a duty performed without due attention is the same as if performed with due attention) wilt thou say that he who sleeps in a tabernacle on the eighth day of the Feast of the Tabernacles shall receive stripes (because he had no right to observe the law for more than seven days)?" Answered Rabha: "I say that one cannot infringe a command except at the time when it should be performed." R. Shamen b. Abba raised an objection: Whence do we know that a priest who ascended the platform (to pronounce the priestly benediction) must not say: Since the Torah has given me the right to bless Israel, I will supplement (the benedictions, Numb. vi. 24-26) by one of my own, as, for example [Deut. i. 11]: "May the Lord God of your fathers make you a thousand times so many more as ye are?" From the Torah which says [Deut. iv. 2]: "Ye shall not *add* unto the word." And in this case as soon as he has finished the benedictions the time for performing that duty has gone by; still if he add a blessing of his own he is guilty of infringing the law, which says, "Ye shall not add." This refers to a case of where the priest had not yet finished the scriptural benediction. We have learned, however, that he had finished the scriptural benediction. The Boraitha means to say that he

had finished only one of the (three) benedictions. We have learned in another Boraitha, however, that even if he had completed all three benedictions, and then supplemented one of his own, he is also guilty of a transgression. In this case it is different, for it might be that the priest would come to another assembly where prayer was held and be called upon to again pronounce the benedictions. Hence it must be assumed that there is no specified time for the priest to pronounce his benedictions, but all day can be considered as the proper time, and thus the priest, by supplementing a benediction of his own, becomes guilty.

R. Shamen bar Abha, however, does not admit that the whole day is the proper time, because the priest is not in duty bound to pronounce the benediction in another assembly. Nevertheless he *is* guilty if he should supplement an additional benediction of his own; whence we see that even if the proper time has passed, guilt is nevertheless incurred, and this is contradictory to Rabha's dictum. Therefore, said Rabha: (I mean), To fulfill the requirements of the law one need not pay attention; to transgress the law against supplementing, at the time prescribed for performing it, also does not require one's special attention; but to transgress the law against supplementing, at the time not prescribed for performance, needs one's special attention. Hence the priest, after completing the scriptural benediction, who says: "Because the law gives me authority I shall supplement a benediction of my own, demonstrates thereby that he does this with special attention, and consequently incurs guilt, even if the prescribed time had passed.

R. Zera said to his attendant: "Pay attention, and sound (the cornet) for me. Do we not thus see that he holds that to fulfill the requirements of the law the act is not enough, and one must pay attention? This is a disputed question among the Tana'im, for we have learned in a Boraitha: One who hears (the blowing of the cornet) must himself listen in order to perform his duty, and he who blows (the cornet) blows after his usual manner. R. Jose said: "These words are said only in the case of the minister for a congregation; but an individual does not do his duty unless both he that hears and he that blows pay proper attention."

MISHNA: (It is written in Ex. xvii. 11 that) "When Moses held up his hand, Israel prevailed," etc. Could then the hands of Moses cause war to be waged or to cease? (Nay); but

it means that as long as Israel looked to heaven for aid, and directed their hearts devoutly to their Father in heaven, they prevailed; but when they ceased to do so they failed. We find a similar instance also in [Numb. xxi. 8]: "Make unto thee a fiery serpent and set it on a pole, and every one that is bitten, when he looketh upon it shall live." Could, then, the serpent kill or bring to life? (Surely not.) But it means when the Israelites looked (upward) to heaven for aid and subjected their will to that of their Father in heaven they were healed, but when they did not they perished. A deaf mute, an idiot, or a child cannot act in behalf of the assembled congregation. This is the general rule: "Whosoever is not obliged to perform a duty cannot act in behalf of the assembled congregation" (for that duty).

GEMARA: The rabbis taught: All are obliged to hear the sounding of the cornet, priests, Levites and Israelites, proselytes, freed slaves, a hermaphrodite, and one who is half slave and half free. A sexless person cannot act in behalf of those like or unlike itself, but a hermaphrodite can act in behalf of those of the same class, but not of any other.

The Master said: It is said, All are obliged to hear the sounding of the cornet, priests, Levites and Israelites. This is self-evident, for if these are not obliged, who are? It was necessary to mention priests here, for one might have supposed that since we have learnt "the Jubilee and New Year's Day are alike with regard to the sounding of the cornet and the benedictions," that only those who are included under the rule of Jubilee are included in the duties of New Year's Day; and as the priests are not included in the rule of Jubilee (for they have no lands to lie fallow, etc.), might we not, therefore, say that they are not bound by the duties of New Year's Day? Therefore he comes to teach us (that they must hear the sounding of the cornet).

A'hbha, the son of R. Zera, teaches: "With regard to all the benedictions, although one has already done his duty he may nevertheless act for others, with the exception of the blessings over bread and wine; concerning which, if he has not yet done his duty, he may act for others, but if he has done his duty he must not act for others."

Rabha asked: What is the rule in the case of the benediction of the unleavened bread, and the wine used at the sanctification of a festival? Since these are special duties, may one act for

others, or perhaps the (duty is only the eating of the unleavened bread and the drinking of the sanctification wine); but the benediction is not a duty, and therefore he cannot act for others? Come and hear. R. Ashi says: When we were at the home of R. Papa, he said the blessing of sanctification for us, and when his field laborer came from work later he said the blessing for him also.

The rabbis taught: One must not say the benediction over bread for guests, unless he eats with them, but he may do so for the members of the family, to initiate them into their religious duties. With regard to the Service of Praise [Hallel Ps. cxiii.-cxviii.] and the reading of the Book of Esther, although one had already done his duty, he may, nevertheless, act for others.

CHAPTER IV.

REGULATIONS CONCERNING THE NEW YEAR'S DAY WHEN IT FALLS
ON SABBATH, AND THE PRAYERS THEREON—THE ORDINANCES OF
THE BENEDICTIONS, ETC.

MISHNA: When the feast of New Year happened to fall on the Sabbath, they used to sound (the cornet) in the Temple, but not outside of it. After the destruction of the Temple R. Jo'hanan b. Zakkai ordained that they should sound (the cornet) in every place in which there was a Beth Din. R. Elazar says that R. Jo'hanan b. Zakkai instituted that for Yamnia alone; but they (the sages) say the rule applied both to Yamnia and every place in which there was a Beth Din. And in this respect also was Jerusalem privileged more than Yamnia, that every city from which Jerusalem could be seen, or the sounding (of the cornet) could be heard, which was near enough, and to which it was allowed to go on the Sabbath, might sound the (cornet) on the Sabbath; but in Yamnia they sounded (the cornet) before the Beth Din only.

GEMARA: Whence do we deduce all this? Said Rabha: The rabbis took a precautionary measure concerning them, as said: Although the duty of sounding (the cornet) is obligatory upon all, yet all are not skilled in sounding (it); therefore they feared lest one might take (the cornet) in his hand, and go to an expert and carry it more than four ells in public ground. The same rule applies to the palm branch (*lulabh*) and also to the scroll (on which is written the) Book of Esther.

"*After the destruction of the Temple, R. Jo'hanan b. Zakkai ordained,*" etc. The rabbis taught: Once it happened that New Year's Day fell on the Sabbath, and all the cities gathered together. Said R. Jo'hanan b. Zakkai to the Bne Bathera:* "Let us sound (the cornet)." "First," said they, "let us discuss." "Let us sound it," replied he, "and then we will discuss." After they had sounded (the cornet) they said to him: "Now let us discuss." He answered: "The cornet

* A scholarly family of Babylonian descent, much favored by Herod.

has now been heard in Yamnia, and we cannot retract after the act has been performed."

"*But they (the sages) say the rule applied both to Yamnia and every place in which there is a Beth Din.*" Said R. Huna: That means in the presence of the Beth Din. Does this preclude people from sounding (the cornet) out of the presence of the Beth Din? And, when R. Itzhak bar Joseph came (from Yamnia) did he not say: When the officiant ministers appointed by the congregation in Yamnia had finished sounding (the cornet) one could not hear his own voice on account of the sounds (of the cornets) used by individuals? (Even individuals) used to sound (the cornet) in the presence of the Beth Din. It was also taught: Rabbi said, "We may only sound (the cornet) during the time that the Beth Din is accustomed to sit."

"*Jerusalem was privileged more than Yamnia,*" etc. (When the Mishna speaks of) "Every city from which Jerusalem could be seen," it means with the exception of a city located in the valley (from which it could be seen only by ascending to an elevated spot); by "the sounding (of the cornet) could be heard," it means to except a city located on the top of a mountain; by "which was near enough," it means to exclude a city outside the prescribed limit (of a Sabbath journey); and by "and to which it was allowed to go," it means to exclude a city (even near by) but divided (from Jerusalem) by a river.

MISHNA: Formerly the palm branch (lulabh) was taken to the Temple seven days, but in cities outside (of Jerusalem) it was taken (to the synagogue) one day. Since the destruction of the Temple, R. Jo'hanan b. Zakkai ordained that the palm branch should everywhere be taken seven days, in commemoration of the Temple, and also it should be prohibited (to eat the new produce) the whole day of waving (the sheaf-offering; *vide* Lev. xxiii. 11-15).

GEMARA: Whence do we know that we do things in commemoration of the Temple? It is written [Jer. xxx. 17]: "For I will restore health unto thee, and I will heal thee of thy wounds, saith the Lord, because they called thee an outcast, saying, This is Zion whom no man seeketh after." By implication (we see) that it (Zion or the Temple) needs being sought after (or commemorated).

"*And that it should be prohibited to eat . . . on the whole day of waving (the sheaf-offering),*" etc. R. Na'hman b. Itzhak remarked: R. Jo'hanan b. Zakkai says this according to the

system of R. Jehudah, for it is written [Lev. xxiii. 14]: "And ye shall eat neither parched corn . . . until the self-same day," *i.e.*, until the very day itself, and he holds that whenever the expression "until" (ad) occurs it is inclusive. How can you say the above according to (R. Jehudah); surely he differs from R. Jo'hanan ber Zakkai? As we have learnt in a Mishna: Since the destruction of the Temple R. Jo'hanan b. Zakkai *ordained* that it should be prohibited (to eat of the new produce) the whole of the day of waving (the sheaf-offering). Said R. Jehudah: Is this not prohibited by the passage which says: "Until the self-same day"? R. Jehudah was mistaken; he thought that R. Jo'hanan b. Zakkai taught that (the prohibition) was rabbinical, and it was not so, for R. Jo'hanan also said it was biblical. But does the Mishna not say "he ordained"? Yes; but what does it mean by "he ordained"? (It means) he explained the ordinance.

MISHNA: Formerly they received evidence as to the appearance of the new moon the whole (of the thirtieth) day. Once the witnesses were delayed in coming, and they disturbed the songs of the Levites. They then ordained that evidence should only be received until (the time of) the afternoon service, and if witnesses came after that time both that and the following day were consecrated. After the destruction of the Temple, R. Jo'hanan b. Zakkai ordained that evidence (as to the appearance) of the new moon should be received all day.

GEMARA: What disturbance did they cause to the songs of the Levites? Said R. Zera to A'hbha, his son: Go and teach to them (the Mishna) thus: "They ordained that evidence as to the appearance of the new moon should not be received, only that there might be time during the day to offer the continual and the additional sacrifices and their drink offerings, and to chant the (daily) song without disturbing the order."

We have learned in a Boraitha: R. Jehudah said in the name of R. Aqiba, What (song) did (the Levites) chant on the first day of the week? "The earth is the Lord's and the fulness thereof" [Ps. xxiv.], because He is the Creator, the Providence and the Ruler of the Universe. What did they sing on the second day? "Great is the Lord and greatly to be praised" [Ps. xlviii.], because He distributed His works and reigned over them. On the third day they sang, "God standeth in the congregation of the mighty" [Ps. lxxxii.], because He, in His wisdom, made the earth appear and prepared the world for its

occupants. On the fourth day they sang, "O Lord, to whom retribution belongeth" [Ps. xciv.], because (on that day) He created the sun and moon, and (determined) to punish in the future those who would worship them. On the fifth day they sang, "Sing aloud unto God our strength" [Ps. lxxxi.], because (on that day) He created birds and fish to praise Him. On the sixth day they sang, "The Lord reigneth, He is clothed with majesty" [Ps. xciii.], because (on that day) He finished His works and reigned over them. On the seventh day they sang, "A Psalm or Song for the Sabbath Day" [Ps. xcii.], for the day that is a perfect rest.

Said R. Nehemiah: "Why did the sages make a distinction between these sections (for the last refers to a future event, while all the others refer to the past)? It *should* have been said that they sang that Psalm on the Sabbath day because He rested!"

What did the Levites sing when the additional sacrifices were being offered on the Sabbath? R. Hanan bar Rabha said in the name of Rabh: Six sections of Deut. xxxii.* R. Hanan bar Rabha also said in the name of Rabh: "As these sections were divided (by the Levites), so they are divided for the reading of the law (on the Sabbath on which they are read)." What did they sing at the Sabbath afternoon service? Said R. Jo'hanan: A portion of the Song of Moses [Ex. xv. 1-10]; the conclusion of that song [ibid. 11-19], and the Song of Israel [Numb. xxi. 17].

The schoolmen asked: Did they sing all these on one Sabbath, or did they, perhaps, sing one section on each Sabbath? Come and hear! A Boraitha teaches: During the time that the first choir of (Levites who sang at the time of the additional sacrifice) sang their sections once, the second choir (that sang at that time of the afternoon sacrifice) had sung theirs twice; from this we may deduce that they sang but one section on each Sabbath.

R. Jehudah b. Idi said in the name of R. Jo'hanan: According to the rabbinical explanation of certain scriptural passages the Shekhinah made ten journeys, and according to tradition a corresponding number of times was the Sanhedrin exiled, viz.: from the cell of Gazith (in the Temple) to the market-place,

* i.-vii.; viii.-xiii.; xiv.-xix.; xx.-xxvii.; xxviii.-xxxvi.; xxxvii.-xliv. These passages are called *Hazyv Lakh* because the initial letters are H, Z, Y, V, L, KH.

from the market-place to Jerusalem, from Jerusalem to Yamnia, from Yamnia to Usha, from Usha (back again) to Yamnia, from Yamnia (back again) to Usha, from Usha to Shapram, from Shapram to Beth Shearim, from Beth Shearim to Sepphoris, from Sepphoris to Tiberias, and Tiberias was the saddest of them all, as it is written [Is. xxix.]: "And thou shalt be low, and shalt speak out of the earth."

R. Elazar says they were exiled six times, as it is written [Is. xxvi. 5]: "For he bringeth down them that dwell on high; the lofty city he layeth low; he layeth it low even to the ground; he bringeth it even to the dust." Says R. Jo'hanan: And thence (from the dust) they will in future be redeemed, as it is written [Is. lii. 2]: "Shake thyself from the dust; arise, and sit down," etc.

MISHNA: R. Joshua b. Kar'ha said: This also did R. Jo'hanan b. Zakkai ordain: That it mattered not where the chief of the Beth Din might be, the witnesses need only go to the meeting-place (of the Beth Din).

GEMARA: A certain woman was summoned for judgment before Ameimar in Neherdai. Ameimar went away to Me'huzza, but she did not follow him, and he wrote a letter to put her in the ban. Said R. Ashi to Ameimar: "Have we not learned that it mattered not where the chief of the Beth Din might be, the witnesses need only go to the meeting place (of the Beth Din)?" Answered Ameimar: "That is true in respect to evidence for the new moon; but with regard to my action, in which case she has been summoned for debt, 'The borrower is servant to the lender,' and she must come to the place where the chief court is" [Prov. xxii. 7].

The rabbis taught: Priests may not ascend the platform in sandals to bless the people; and this is one of the nine ordinances instituted by R. Jo'hanan b. Zakkai; six are to be found in this chapter, one in the first chapter; another one is, if one become a proselyte nowadays, he must pay a quarter of a shekel for a sacrifice of a bird (so that if the Temple should be rebuilt the authorities would have a contribution from him towards the daily sacrifices). R. Simon b. Elazar, however, said that R. Jo'hanan had already withdrawn this regulation and annulled it, because it easily led to the sin (of using the money for different purposes). And what is the ninth (ordinance of R. Jo'hanan)? R. Papa and R. Na'hman b. Itz'hak dispute about this. R. Papa says it was with regard to a vineyard of the

fourth year's crop; but R. Na'hman b. Itz'hak says it was with regard to the crimson-colored strap (displayed on the Day of Atonement (on the scapegoat).

MISHNA: The order of the benedictions (to be said on New Year is as follows): The blessings referring to the patriarchs (Abhoth), to the mighty power of God (Gebhuroth), and the sanctification of the Holy name; to these he adds the selection in which God is proclaimed King (Malkhioth), after which he does not sound the cornet; then the blessing referring to the sanctification of the day, after which the cornet is sounded; then the biblical selections referring to God's remembrance of His creatures (Zikhronoth), after which the cornet is again sounded; then the biblical selections referring to the sounding of the cornet (Shophroth), after which the cornet is again sounded; he then recites the blessings referring to the restoration of the Temple, the adoration of God, and the benediction of the priests. So is the decree of R. Jo'hanan b. Nouri. Said R. Aqiba to him: If the cornet is not to be sounded after the Malkhioth, why are they mentioned? But the proper order is the following: The blessings referring to the patriarchs (Abhoth), to the mighty power of God (Gebhuroth), and the sanctification of the Holy name; to this last the biblical selections referring to the proclamation of God as King (Malkhioth) are joined, and then he sounds the cornet; then the biblical selections referring to God's remembrance of His creatures (Zikhronoth), and he then sounds the cornet; then the biblical selections referring to the sounding of the cornet (Shophroth), and he again sounds the cornet; then he says the blessings referring to the restoration of the Temple, the adoration of God, and the priestly benedictions.

GEMARA: The rabbis taught: Whence do we know that we should recite the Malkhioth, Zikhronoth, and Shophroth? Said R. Eliezer: From the passage [Lev. xxiii. 24] in which it is written: "Ye shall have a Sabbathon, a memorial of blowing cornets, a holy convocation," the word "Sabbathon" refers to the consecration of the day; "a memorial" refers to the Zikhronoth; "blowing of cornets" refers to the Shophroth; "a holy convocation" means the hallowing of the day in order to prohibit servile work. Said R. Aqiba to him: Why is not the word "Sabbathon" construed to mean the prohibition of servile work, since the passage (quoted above) begins with that? Therefore, let the passage be interpreted thus: "Sabbathon" means the hallowing of the day and the prohibition of servile work; "me-

morial" refers to the Zikhronoth; "blowing of the cornets" refers to the Shophroth; "a holy convocation" means the consecration of the day.

Whence do we know that we should recite the Malkhioth? From the following Boraitha: Rabbi said: The words, "I am the Lord your God"; and "in the seven month" (stand together) [Lev. xxiii. 22, 24], which may be interpreted to refer to the proclamation of God as King. R. Jose b. R. Jehudah says it is not necessary to cite this passage; for it is written [Numb. x. 10] "that they may be to you for a memorial before your God: I am the Lord your God." These concluding words "I am the Lord your God" are entirely superfluous, but since they are used, of what import are they? They form a general rule, that in every selection in which (God's) remembrance of His creatures is mentioned there should also be found the thought that He is the King of the Universe.

MISHNA: Not less than ten scriptural passages should be used for the Malkhioth, ten for the Zikhronoth, and ten for the Shophroth. R. Jo'hanan b. Nouri says: If by three of each class, one will have done his duty.

GEMARA: To what do the ten scriptural passages used for the Malkhioth correspond? Answered Rabbi: To the ten expressions of praise used by David in the Psalms. But there are more expressions of praise found? Only those are meant, in conjunction with which it is written "praise him with the sound of the cornet" [Psalm ci. 3]. R. Joseph says: "They correspond to the ten commandments that were proclaimed to Moses on Sinai." R. Jo'hanan said, they correspond to the ten words with which the universe was created.

"By three of each class, one will have done his duty." The schoolmen asked: "Does he mean three from the Pentateuch, three from the Prophets, and three from the Hagiographa, which would make nine, and they differ about one (passage)? or perhaps one from the Pentateuch and one from the Prophets and one from the Hagiographa, which would make three, and they differ about many passages?" Come and hear! We have learned in a Boraitha: Not less than ten scriptural passages should be used for the Malkhioth, ten for the Zikhronoth, and ten for the Shophroth; but if seven of them all were recited, corresponding to the seven heavens, the duty has been fulfilled. R. Johanan ben Nouri remarked: He that recites less (than ten of each) should not, however, recite less than seven; but if he recited but three,

corresponding to the Pentateuch, Prophets, and Hagiographa, according to others corresponding to the Priests, Levites, and Israelites, it is sufficient. Said R. Huna in the name of Samuel: The Halakha prevails according to R. Jo'hanan b. Nouri.

MISHNA: We do not cite scriptural passages for the above three series that contain predictions of punishment. The passages from the Pentateuch are to be recited first, and those from the Prophets last. R. Jose, however, says "if the concluding passage is from the Pentateuch one has also done his duty."

GEMARA: Passages, proclaiming the kingdom of God that should not be used (because of the above), are such as the following [Ezekiel, xx. 33]: "As I live, saith the Lord God, surely with a mighty hand, and with a stretched out arm, and with fury poured out, I will rule over you," and although as R. Na'hman says (of this passage): Let Him be angry with us, but let Him take us out of captivity, still, since it refers to anger, we should not mention "anger" at the beginning of the year. An example of the same idea being found in conjunction with the Zikhronoth is to be read in [Ps. lxxviii. 39], "For he remembered they were but flesh;" in conjunction with the Shophroth an example is found in Hosea, v. 8: "Blow ye the cornet in Gibeah," etc.

We must not mention the remembrance of the individual (in the Zikhronoth) even if the passage speaks of pleasant things, as, for example [Ps. cvi. 4], "Remember me, O Lord, with the favor that thou bearest unto thy people." However, passages that contain the expression of "visiting" may be used in the Zikhronoth, *e.g.*, "And the Lord visited Sarah" [Gen. xxi. 1] or "I have surely visited you" [Ex. iii. 16], so says R. Jose; but R. Jehudah says, they may not. But even if we agree to what R. Jose says (shall we say that) the passage "and the Lord visited Sarah" speaks of an individual (and therefore it should not be used)? Nay; since many descended from her, she is regarded as many and therefore that passage, though speaking of one only, is regarded as though it spoke of many.

(In the Malkhiuth, they used Ps. xxiv. 7-10, which is divided into two parts.) The first part can be used as two of the required passages, and the second as three, so said R. Jose; but R. Jehudah said: The first part can be used only for one, and the second for two.* So too [Ps. xlvii. 7, 8], "Sing praises to God, sing praises, sing praises to our king, sing praises; for God is the

* He excludes the two interrogative sentences, "Who is the king of glory?"

King of all the earth.” R. Jose said: This may be used for two of the Malkhioth; but R. Jehudah said: “It is to be reckoned as one only.” (He rejects one, because the words “our king,” referring to one people only, was not a sufficiently broad expression of praise for Him who is the King of the universe.) Both, however, agree that the next verse of the same Psalm, “God is King over the nations; God sitteth upon the throne of his holiness,” is to be used for one only. A passage containing a reference to God’s remembrance of His creatures and also to the cornet, as for instance [Lev. xxiii. 24], “Ye shall have a Sabbath, a memorial of blowing of cornets,” may be used in the Zikhronoth and the Shophroth; so said R. Jose; but R. Jehudah said: It can only be used in the Zikhronoth. A passage in which God is proclaimed King, containing also a reference to the cornet, as for instance [Numb. xxiii. 21], “The Lord his God is with him, and the shout (*Teruath*) of a king is among them,” may be used in the Malkhioth and in the Shophroth, said R. Jose; but R. Jehudah said: It may only be used in the Malkhioth. A passage containing a reference to the cornet, and nothing else, as for instance [Numb. xxix. 1], “It is a day of blowing the cornet,” may be used for the Shophroth, so said R. Jose; R. Jehudah, however, said: Must not be used at all.

“*The passages from the Pentateuch are to be recited first and those from the Prophets last.*” R. Jose said: “We should conclude with a passage from the Pentateuch, but if one concluded with a passage from the Prophets, one has done his duty.” We have also learned: R. Elazar bar R. Jose says: “The Vathiqin * used to conclude with a passage from the Pentateuch. It is correct as far as Zikhronoth and Shophroth are concerned, for there are many such passages; but as for the Malkhioth there are but three in the Pentateuch, viz.: “The Lord his God is with him, and the shout of a King is among them” [Numb. xxiii. 21]; “And he was king in Yeshurun” [Deut. xxxiii. 5]; and “The Lord shall reign forever” [Ex. xv. 18], but we require ten and there are not so many? Said R. Huna: We have learned that, according to R. Jose, the passage, “Hear, O Israel, the Lord our God is one” [Deut. vi. 4], may be considered as Malkhioth, but R. Jehudah said, it may not; so also they differ with regard to the passages, “Know, therefore, this day, and consider it in thine

* A sect similar to Hasidim.

heart, that the Lord, he is God ; there is none else " [Deut. iv. 39], and " Unto thee it was shewed, that thou mightest know that the Lord, he is God ; there is none else beside him " [Deut. iv. 35]. According to the one they are considered Malkhieth, but according to the other not.

MISHNA : The second of those who act as ministers of the congregation on the feast of New Year shall cause another to sound the cornet ; on days when the HALLEL (Service of Praise, Ps. cxiii.-cxviii.) is read, the first (minister) must read it. In order to sound the cornet on New Year's Day it is not permitted to go beyond the Sabbath limit, to remove a heap of stones, to ascend a tree, to ride on an animal, to swim over the waters, nor to cut it (the cornet) with anything prohibited either by the (Rabbinical) laws against servile work or by a Biblical negative commandment ; but if one wishes to put water or wine in a cornet (to cleanse it) he is allowed to. Children must not be prevented from sounding the cornet, but on the contrary we are permitted to occupy ourselves with teaching them until they learn to sound it ; but one who thus teaches, as also others who listen to sounds thus produced, do not thereby fulfil their duty.

GEMARA : What is the reason of the above prohibitions ? Because the sounding of the cornet is a positive commandment ; now, the observance of a festival involves both positive and negative commandments, and the one positive cannot supersede two (negative and positive.)

" *Children must not be prevented from sounding the cornet,*" etc. But women are to be prevented ? Have we not learned in a Boraitha : Neither women nor children may be prevented from sounding the cornet on the New Year's Day ? Said Abayi : " It presents no difficulty, the one is according to R. Jehudah and the other is according to R. Jose and R. Simeon, who say that as women are permitted (in the case of sacrifices) to lay their hands on the animals, so here, if they desire to sound the cornet, they may.

" *Until they learn.*" Said R. Elazar : Even on the Sabbath ; so also we have learned in the following Boraitha : We are permitted to occupy ourselves with teaching (children) until they learn (to sound the cornet) even on the Sabbath : (and if we do not prevent them doing this on the Sabbath) how much less do we, on the feast (of New Year). Our Mishna says, " We do not prevent them " (from this we may infer that we do not start to tell to a child : Go and sound the cornet) ? It presents no difficulty : a child already initiated in the performance of religious

duties may be told also: Go and sound! but not a child not yet initiated; however, we do not prevent him.

MISHNA: The order of sounding the cornet is three times three. The length of a TEQIA is equal to that of three TERUOTH, and that of each Terua as three moans (YABABHOTH). If a person sounded a Teqia and prolonged it equal to two, it is only reckoned as one Teqia.* He who has just finished reading the benedictions (in the additional service for the New Year) and only at that time obtained a cornet, should then blow on the cornet the three sounds three times. As the Reader of the congregation is in duty bound (to sound the cornet) so too is each individual; R. Gamaliel, however, said the Reader can act for the congregation.

GEMARA: But have we learned in a Boraitha, that the length of a Teqia is the same as that of a Terua? Said Abayi: The Tana of our Mishna speaks of the three series, and means that the length of all the Teqioth is the same as that of all the Teruoth. But the Tana of the Boraitha speaks of only one series and says that one Teqia is equal to one Terua (which is the same thing).

“*Each Terua is (as long as) three moans.*” But we have learned in a Boraitha, a Terua is as long as three broken (staccato) tones (SHEBARIM). Said Abayi: About this they do indeed differ, for it is written [Numb. xxix. 1], “It is a day of blowing the cornet,” which in the (Aramaic) translation of the Pentateuch is, “It is a day of sounding the alarm (YABABA). Now it is written concerning the mother of Sisera [Judg. v. 28], “The mother of Sisera . . . moaned” (VAT’YABEB); this word, one explains to mean a protracted groan, and another to mean a short wail.

The Rabbis taught: Whence do we know (that one must sound) with a cornet? From the passage [Lev. xxv. 9], “Thou shalt cause *the cornet* . . . to sound, etc.” Whence do we know that (after the Terua) there should be one Teqia? Therefore it is said (later in the same verse), “Ye shall make the cornet sound.”† But perhaps this only refers to the Jubilee? Whence do we know that it refers also to New Year’s Day? Therefore it is written (in the same verse) “in the seventh month.” These

* The cornet is sounded three times, corresponding to the Malkhioth, Zikhronoth, and Shophroth. The order of the sounds is Teqia, Terua, Teqia; Teqia, Terua, Teqia, etc. The case here supposed is that the one who sounded the cornet sustained the second Teqia as long as two Teqioth, intending thereby to sound the second and third Teqioth. This, we see, is not permitted.

† The Hebrew words UTHEQATEM TERUA are interpreted to mean that first a Teqia should be sounded, and then a Terua.

words are superfluous; for what purpose then does the Torah use them? To teach us that all the sounds of the cornet during the seventh month should be like each other. Whence do we know that the sounds are to be three times three? From the three passages, "Thou shalt cause the cornet . . . to sound" [Lev. xxv. 9]; "A Sabbath a memorial of blowing of cornets" [Lev. xxiii. 24]; "It is a day of blowing the cornet" [Numb. xxix. 1]. But the Tana of the following Boraitha deduces it by analogy of expression from (the rules given in) the wilderness [Numb. x. 1-10]. As we have learned, the words "When ye sound an alarm" [Numb. x. 5] mean one Teqia and one Terua. Whence do we know that they shall be separated, perhaps it means that both together should be sounded? Since it is written [ibid. 7]: "But when the congregation is to be gathered together, ye shall blow but ye shall not sound an alarm," we may infer that they must be separated, a Teqia by itself, and a Terua by itself. But whence do we know that there should be one Teqia before the Terua? From the words [ibid. 5]: "When ye sound an alarm" (*i. e.*, first a "sound," or Teqia, and then an "alarm," or Terua). And whence do we know that there should be one after the Terua? From the words [ibid. 6]: "An alarm shall they sound!" R. Ishmael, the son of R. Jo'hanan bar Berokah, however, says: It is not necessary, as it is written: "When ye sound an alarm the second time" [ibid. 6]. The words "a second time" are unnecessary, and to what purpose are they used? To form a general rule that on every occasion on which "alarm" (Terua) is mentioned, a sound (Teqia) must be used with it as a second (or following) tone. Possibly all this only refers to the practices followed in the wilderness, but how do we know that they refer to New Year's Day also? Therefore it is written: Terua twice to make us infer by an analogy of expression, and as concerning the New Year Terua is written thrice in the three passages, [Lev. xxiii. 24]: "A sabbath, a memorial of cornets"; [Numb. xxix. 1]: "It is a day of blowing of cornets"; and [Lev. xxv. 9]: "Thou shalt cause the cornet . . . to sound"; and for each Terua there are two Teqioth, we therefore learn that on New Year's Day must be sounded three Teruoth and six Tekioth.

R. Abbahu enacted in Cæsarea that the order should be first a Teqia* then three single staccato sounds, or Shebharim, then a

* The Teqia is a long tone produced by sounding the cornet. The Terua is a long tremulous sound. The Shebharim consists of three short staccato sounds.

Terua and then again a Teqia. At all events it is not right: If by Terua is meant "a protracted groan" then he should have instituted the order to be a Teqia, a Terua, and then a Teqia; and if it means "a short wail," then he should have instituted the order to be, a Teqia, then Shebharim (three single broken sounds), and then again a Teqia? He was in doubt whether it meant one or the other (and therefore he enacted that both should be sounded).

"If a person sounded a teqia and prolonged it equal to two," etc. R. Jo'hanan says: If one heard the nine sounds at nine different hours during the day, he has fulfilled his duty. The same we have learned in the following Boraitha: "If one heard the nine sounds at nine different hours of the day it is sufficient, and if he heard from nine men at one time, a Teqia from one and a Terua from another, etc., he has also done his duty, even if he heard them intermittently, and even during the whole day or any part of the day." The rabbis taught: (Generally) the soundings of the cornet do not prevent each other (if one can blow a *Teqia*, but not a *Terua*, or pronounce one benediction and not another, it might be said he should not blow or pronounce any benediction at all. We are taught that the one does not prevent the other on the fasts of the congregation and other occasions when these are needed), nor do the benedictions; but on New Year's Day and the Day of Atonement they do.

"He who has just finished reading (the additional service) and only at that time obtained a cornet shall sound on the cornet the three sounds three times." This means, only when he did not have a cornet at the beginning (of the service): but if he had one at the beginning of the service when the sounds of the cornet are heard, they must be heard in the order of the benedictions of the day.

R. Papa bar Samuel rose to recite his prayers. Said he to his attendant, When I nod to you sound (the cornet) for me. Rabha said to him: "This may only be one in the congregation." We have learned in a Boraitha in support of this: "When one hears these sounds, he should hear them both in their order and in the order of the benedictions (in the additional service of the New Year)." This only applies to a congregation, but one should hear them in the order of the benedictions only, if he is not in a congregation; and a private individual who has not sounded the cornet (or heard it sounded) can have a friend sound

it for him; but a private individual who has not recited the benedictions cannot have a friend say them for him; and the duty to hear the cornet sounded is greater than that of reciting the blessings. How so? If there be two cities (to which a person may go) and in one city they are about to sound the cornet and in the other to recite the benedictions, he should go to the city in which they are about to sound the cornet; and not to that in which they are about to recite the benedictions. Is this not self-evident, because the sounding is Biblical and the benedictions are only Rabbinical? The case is when the reciting of the benedictions in one city was certain; sounding the cornet in the other city was doubtful. He must nevertheless go to the city where they are about to sound the cornet.

"Just as the reader of the congregation is in duty bound (to sound the cornet) so too is each individual." We have learned in a Boraitha: The schoolmen said to R. Gamaliel, Why according to thy opinion should the congregation pray? Answered he: In order to enable the Reader of the congregation to arrange his prayer. Said R. Gamaliel to them: "But why, according to your opinion, should the Reader act for the congregation?" Answered they: "In order to enable those who are not expert to fulfil their duty." And he rejoined: "Just as he enables the illiterate, so too he causes the literate to fulfil their duty." Rabba bar bar 'Hana said in the name of R. Jo'hanan: The sages later accepted the opinion of R. Gamaliel; but Rabh said there is still a difference between them; could (the same) R. Jo'hanan say this? Did not R. 'Hana of Sepphoris say in the name of R. Jo'hanan: "The Halakha prevails according to R. Gamaliel;" from these words ("the Halakha prevails according to R. Gamaliel") we see that there must have been some that differed from him! Said R. Na'hman b. Itz'hak: "By the words, *"the sages* accept the opinion of R. Gamaliel," R. Meir is meant, and the rule arrived at through those who differed from him (was arrived at) through other rabbis; for we have learned in the following Boraitha: R. Meir holds that with regard to the benedictions of New Year's Day and the Day of Atonement, the Reader can act for the congregation; but the sages say: "Just as the Reader is in duty bound, so too is each individual." Why only for these benedictions (and no other)? Shall we assume it is because of the many Biblical selections used? Does not R. 'Hananel say in the name of Rabh: As soon as one has said (the passages beginning with) the words, "And in thy law it is writ-

ten," he need say no more? It is because there are many (more and longer) benedictions (than usual).

It was taught, R. Jehoshua ben Levi said: "Both the private individual and the congregation as soon as they say (the passages beginning) with the words, "And in thy law it is written," need say no more.

R. Elazar says: A man should always first prepare himself for prayer and then pray. R. Abba said: "The remarks of R. Elazar seem to apply to the benedictions of New Year's Day and the Day of Atonement, and to the various holidays, but not to the whole year." It is not so; for did not R. Jehudah prepare himself (even on a week day) before his prayers and then offer them? R. Jehudah was an exception, for since he prayed only once in thirty days, it was like a Holiday. When Rabbin came (from Palestine) he said in the name of R. Jacob bar Idi quoting R. Simeon the Pious: R. Gamaliel did not excuse from public service any but field-laborers! What is the difference (between them and others)? They would be forced to lose their work (if they went to a synagogue), but people in a city must go (to the House of Prayer).

END OF TRACT "NEW YEAR."

מסכת

ראש השנה

(ה) רבי שמעון בן גמליאל אומר משום רבי שמעון בן הסגן, פרוכת עביה טפה, ועל שבעים ושנים נימין נארגת, ועל כל נימא ונימא עשרים וארבע חוטיין, ארכה ארבעים אמה ורחבה עשרים אמה, ומשמנה ושתי רבוא נעשית, ושתיים עושין בכל שנה, ושלוש מאות כהנים מטבילין אותה.

(ו) בשר קדשי קדשים שנטמא, בין באב הטומאה בין בולד הטומאה, בין בפנים, בין בחוץ, בית שמאי אומרים הכל ישרף בפנים, חוץ מי שנטמא באב הטומאה בחוץ; בית הלל אומרים הכל ישרף בחוץ, חוץ מי שנטמא בולד הטומאה בפנים.

(ז) רבי אליעזר אומר, את שנטמא באב הטומאה, בין בפנים, בין בחוץ, ישרף בפנים; רבי עקיבא אומר מקום טמאתו, שם שריפתו.

(ח) אברי התמיד ניתנין מחצי כבש ולמטה במזרח, ושל מוספין ניתנין מחצי כבש ולמטה במערב, ושל ראשי חדשים ניתנין מתחת כרכוב המזבח מדרמטה. השקלים והבכורים אין נוהגין אלא בפני הבית, אבל מעשר דגן ומעשר בהמה והבכורות נוהגין בין בפני הבית, בין שלא בפני הבית. המקדיש שקרים ובכורים, הרי זה קדש; רבי שמעון אומר, האומר בכורים קדש, אינן קדש.

חרון עלך טסכת שקלים.

פירוש רמ"ל

(ה) רשב"ג, בדבר הפרכת יאטר בירושלמי כי המשנה דברה בלשון הבאי, וגם בבבלי (חולין צ:): יהשוב את המשנה הזה וגם מה שחשקו את התמיד ככוס של זהב מן דברי הבאי, ואולם הרואה בספר Buchler שזכרנו לעיל, יראה כי ריבוי הכהנים המטבילין אותו אינו גוזמא, כי לא מצאנו את המשנה תספר גוזמאות וההיקש לערים גדולות ובצורות כש"ס, וכן לות בקע הארץ לקולם אינו דומה כלל, כי כבר אמר ר' ישמעאל גם בהלכה שהתורה דברה בלשון בני אדם, משא"כ פה שהמספר מצומצם, וגם לחשקות את התמיד בכלי זהב איננו מן דברים המפליאים, לפי רובי העשירות וכלי זהב שהיו במקדש, וצ"ג, (ראה בתפא"ו כ"ש בשם הגאון מוויילנא), וגם הסך שקצבת להוצאת הפרוכת יכול להיות כי היה מטבע קטנה כהפיאסטר עתה במדינת השולטן או כהשוה בצרפת; כי בדרך כלל לא מצאנו שהמשנה תספר גוזמאות.

(ו, ז) הכל ישרף בפנים, מקום טומאתו, במסכת המיד יתבארו שתי המשניות האלו, כי יש מקומן.

(ח) ענין הכרכוב שהוא לענין מוספי ר"ח יתבאר במס' מדות. מעשר ובכורות נהגו גם

שלא בפני הבית לכלכל את המון הלויים, שלא היה להם כל נהלה מאבותיהם.

פרק שמיני.

(א) כל הרוקין הנמצאין בירושלים טהורין, חוץ משל שוק העליון, דברי רבי מאיר; וחכמים אומרים בשאר ימות השנה, שבאמצע טמאין, ושבעצדין טהורין, ובשעת הרגל, שבאמצע טהורין, ושבעצדין טמאין, שמפני שהן מועטין, מסתלקין לצדדין.

(ב) כל הכלים שנמצאין בירושלים, דרך ירידה לבית הטבילה, טמאין, דרך עליה, טהורין; שלא בדרך ירידתן, עליתן, דברי רבי מאיר; רבי יוסי אומר, כולן טהורין, חוץ מן הסל, ומן המגריפה, והמריצה, המיוחדין לקברות.

(ג) סכין שנמצאת בארבעה עשר, שוחט בה מיד, בשלשה עשר שונה ומטביל; וקופיץ, בין בזה ובין בזה שונה ומטביל; חל ארבעה עשר להיות בשבת, שוחט בה מיד, בחמשה עשר שוחט בה מיד, נמצאת קשורה בסכין, הרי זו כסכין.

(ד) פרוכת שנטמאה בולד הטומאה, מטבילין אותה בפנים ומכניסין אותה מיד, ואת שנטמאה כאב הטומאה, מטבילין אותה בחוץ, ושומחין אותה בחיל, ואם היתה חדשה שומחין אותה על גג האיציטבא, כדי שיראו העם את מלאכתן שהיא נאה.

פירוש רמ"ל

פרק שמיני.

(א) כל הרוקין, רוק הוב הנזכר בתורה (ויקרא ט"ו 8) ידוע הוא שהוא טמא, ויען כי אי אפשר שלא היו זבין בין העם הרב שבא בירושלם יום יום, ואי אפשר שלא יגעו טהורים ברוק של הוב בעת מהלכם ברחובות ירושלם, תשמיענו המשנה את המנהג, איככה נהגו בהיות ירושלם בשלוחה ובהמ"ק על מכוננו, והנה רמ"א אמר שכל טמא זיבה הלכו למו בשוק העליון ולא בשוקים וברחובות אחרים למען לא יטמאו את הטהורים, אבל חכמים אומרים, כי בשעת הרגל קבעו למהלך הטמאים את צדי הדרכים וכל הטהורים הלכו באמצע, ובחול להפוך, ומובן מאליו שאין לחוש להרוק שנמצא במקום שהטהורים מהלכים, וכן אין כפץ שהרוק הנמצא במקום שהטמאים מהלכים, שהוא טמא.

(ב) כל הכלים, מוצאת המשנה למדנו כי שני דרכים היו לבית הטבילה אחת לירידה ואחת לעליה, שלא יפגעו הטהורים בעת עלייתן את הטמאים ויתטמאו שנית, ולכן הננו הולכים אחרי הרוב כלומר כל דפריש מרובא פריש, ובירידה שהיו כל הכלין טמאין הנמצא טמא ובעליה שהיו טהורין הנמצא טהור, ואך על הכלים שמיחדין לטומאה גזרו גם נמצאו בדרך העליה, מפני שאין מוציאין כלי מחזקתה; והטעם הזה גם בסכין במשנה שלאחר זאת, ואך הקופץ שלא נהגו לשחוט בו שונה הוא, כי אינו פריש מרובא. הר"ד יאסע תרגם על פי פירוש המימוני את המשנה הזאת והוא דהוק מאד, ולכן פרשנו את המשנה כפשוטה, ואחרי כתבנו זאת ראינו גם בפירוש תפארת ישראל, שגם הוא מוכן כפירושנו.

(ד) פרוכת שנטמאו, ענין ולד הטומאה יר"ל "ראשון לטומאה" יקרא מי שנגע באב הטומאה, וכדר מחלקותם היא: "גוית מת" היא נקראת "אבי אבות הטומאה", הנוגע בה היא "אב הטומאה" והנוגע בו הוא "ראשון", והנוגע בראשון יקרא "שני לטומאה, וכן "שלישי, וכן "רביעי", ופרטי דינם יתבאר בסדר טהרות.

(ד) בהמה שנמצאת מירושלים ועד מגדל עדר, וכמידתה לכל רוח, זכרים ועולות, נקבות זכאי שרמים; רבי יהודה אומר, הראוי לפסחים פסחים, קודם לרגל שלשים יום.

(ה) בראשונה היו ממשכנין את מוצאייה עד שהוא מכיז נסכיה, חזרו להיות מניחין אותה ובורחין, התקינו שיהו נסכיה באין משל ציבור.

(ו) אמר רבי שמעון, שבעה דברים התקינו בית דין, וזה אחד מהן: נכרי ששלח עולתו ממדינת הים, ושלח עמה נסכים, קריבין משלו, ואם לאו, קריבין משל ציבור; וכן גר שמת, והניח זבחים, אם יש לו נסכים קריבין משלו, ואם לאו, קריבין משל ציבור; ותנאי בית דין הוא על כהן גדול שמת שתהא מנחתו קריבה משל ציבור. רבי יהודה אומר, משל יורשין ושלמה היתה קריבה.

(ז) על המלח, ועל העצים, שיהו הכהנים ניאותין בהן; ועל הפרה שרא יהו מועלין באפרה, ועל הקניין הפסולות שיהו באות משל ציבור; רבי יוסי אומר, המספיק את הקניין מספיק את הפסולות.

פירוש רמ"ל

עולה כלול על המזבח ולא היו מנתחים אותה לנתחים רק לאברים שלמים, לכן אם נמצא אבר שלם ירענו שהוא עולה, אבל ההטאת, שממנה היו הכהנים אוכלין, היו מנתחין לנתחים ולכן הוששין שמה הטאת היא, ואם אמנם לא היו אוכלים כלל את הנמצאות מחשש נותר, היתה צריך להשמיטנו את דין הבשר הנמצא, למען נדע הדין אם עבר אחר ואכלו, שאז בירושלם לא היה חייב שום אדם על האכילה התיא, וכן בעזרה לא היינו יכולים לחייב את הכהן בעד איזה חתיכה מפני שהיא היתה כוראי דבר הנאכל לכהנים, כי מהעולות לא היה חתיכות, אבל אם אכל אבר שלם, אז חייב שבא מעולה הוא שמשפטה להיות כולה כליל. ואגב תבאר את הדין בבשר חולין שנמצא בכל ערי ישראל שאם אך חתיכה היא ולא אבר, הולכין אחר הרוב שהוא מבשר שהוטתה, אך על אבר שלם יש לחוש שבא לא חששו להתכו מפני שהיא נבלה ועזבו אותו לחית השרה כמו שהוא ולכן אסור בכל ימות השנה; אך ברגל, שהבשר מרובה, הולכין גם באברים אחר הרוב שהוא מבשר שהוטתה, במקום שרוב אנשי העיר ישראל המה.

(ד) בהמה שנמצאת וכו', ר' יהודה יצחק בהשקפתו על בהמות הזכרים שנמצאו קרוב לפסח, העת שכל ישראל מקריבין את פסחיהן שקרוב לזרוא הוא כי הוא אחר מן הפסחים שנאבדו לבעליהן, אבל כונתו דוקא על זכר בן שנה ולא על בהמה שנראה שיש לו יותר מן שנה אחת, אך החכמים מחמירין גם בזה ואומרים כי יוקרב לעולה שהוא כולה כליל, פן מן העולות היא ומעלין בקודש ולא מורדין.

(ו) כהן גדול שמת, מנחת כהן היא הנאמר בויקרא ו, 13.

(ז) מועלין באפרה, אם כי מן התורה אין בה לא קרשה ולא מעילה גזרו החכמים, מפני שהיו הכהנים משתמשים באפרה, ועיקר הרוב שהמשנה מזכרת פה, המה הקניין הפסולות, ר"ל אם נמצאו פסולות אחר שהגזבר שלם בעדם ולקחם מהמוכר, שבלי ספק נפסלו בעת היותם כבר תחת יד הגזבר שאז אין אחריותה על המוכר ואחרים יקרבו תחתיה משל ציבור, ויען כי יד ההקדש תמיד על העליונה, והרבר הזה היה מן הרברים שרוב המוכרים לא יכלו לעמוד בו, לכן הוצרכו לתקן זאת בתקנה מיוחדת, ור' יוסי הולק גם בזה, אך אין חלכה כמותו. ופרטי הדינים מקינים יתבארו במקומם.

פרק שביעי.

(א) מעות שנמצאו בין השקלים לנדבה, קרוב לשקלים יפלו לשקלים, לנדבה יפלו לנדבה, מחצה למחצה, יפלו לנדבה; בין עצים ללבונה, קרוב לעצים יפלו לעצים, ללבונה יפלו ללבונה, מחצה למחצה יפלו ללבונה; בין קינין לגזולי עולה, קרוב לקינין יפלו לקינין, לגזולי עולה, יפלו לגזולי עולה; מחצה למחצה יפלו לגזולי עולה; בין חולין למעשר שני, קרוב לחולין יפלו לחולין, למעשר שני יפלו למעשר שני, מחצה למחצה יפלו למעשר שני. זה הכלל, הולכין אחר הקרוב להקל, מחצה למחצה להחמיר. (ב) מעות שנמצאו לפני סוחרים בהמה, לעולם מעשר; בהר הבית, חולין; בירושלים בשעת הרגל, מעשר, ובשאר כר ימות השנה חולין.

(ג) בשר שנמצא בעזרה, איברין עולות; חתיכות חטאות; בירושלים ובחי שלמים; זה וזה תעובר צורתו ויצא לבית השריפה, נמצא בגבולין איברין נבילות, חתיכות מותרות; בשעת הרגל שהבשר מרובה, אף איברין מותרין.

פירוש רמ"ל

פרק שביעי.

(א) מעות שנמצאו, לפי שיש הברל בין קדושה לקדושה בקרבנות ובנסכים, ומהחובה שלא יחליפו לקנות מן מעות שנתרמו לקדושה חמורה דברים שהמה רק קדושה קלה, לכן אומר שאם נמצא הכסף בשיעור שזה משני הרברים, היינו ששטח הרצפה מן הכסף לחיבת השקלים ולחיבת הנדבה שזה הנחה, אז מחשש שמא המה מעות נדבה שמהם קונין רק עולות והמה קדושה חמורה מן כסף השקלים שבדמיהם קונין כל דבר וגם נותנין לאומנין, לכן יקנו בכסף הזה דבר שבו קדושה חמורה מן כסף השקלים, וכן הדבר עם עצים ולבונה שהלבונה קדושה מהעצים מפני שהלבונה היא קרבן והעצים רק מבשורי קרבן, וכן הוא הדין בכל אשר תחשוב המשנה הלאה שהשנים קדושה יותר מהראשונה, ולכן בעת ספק תזכה תמיד החמורה מן הקלה. וזה אומרה "להחמיר", ר"ל לקנות בהכסף דבר שבו קדושה חמורה מהעד שכנגדה, ובדבר עמירתם של השופרות ושתחם ראה בפירוש תפא"י.

(ב) לפני סוחרים בהמה, הכסף שנמצא בהר הבית שרוב ההולכים בו המה כהנים, יש לשער כי הכסף נפל מאתם והמה חולין, מפני כי כסף הקדשים לא ישאו הכהנים בצלהתם ואם נטלוהו מן התיבה למטרת הקרבן, בלי ספק כבר חללו אותו על הבהמה בעודו בלישכה, וממילא יצא הכסף לחולין; משא"כ אם נמצא הכסף במקום אחר לפני סוחרים הבהמות היא בלתי ספק ממעות מעשר שני, אשר רוב הקונים אך בכסף מעשר שני יקנו, ולכן נחשב כן בכל ימות השנה. ומטעם הזה הכסף הנמצא בכל מקום בחוצות ירושלם בשעת הרגל, שכל ישראל יעלו שמה לרגל ויביאו אתם את כסף מעשר שני, הולכים אחר הרוב שנאמר מאחד מהאורחים, אבל בכל ימות השנה, וזולת שוק הבהמות, הכסף חולין.

(ג) יען כי זבחי השלמים נאכלין בכל העיר לכל אדם, לכן אם נמצא בשר ברחוב נחשוב אותו לשלמים, ויען כי יכול להיות שהוא נותר (ר"ל יותר משני ימים ולילה אחר), לכן יהיוקוהו בספק עוד לילה אחד למען יוכלו להוציאו לבית השריפה כודאי נותר. ובעזרה שהעולה היתה

לנדבה. נדבה מה היו עושי? לוקחין בה עולות, הבשר לשם, והעורות לכהנים; והו מדרש דרש יהודע כהן גדול: "אשם הוא אשם אשם לה' (ויקרא ה') זה הכלל, כל שהוא בא משום הטא ומשום אשמה, ילקח בו עולות, הבשר לשם, והעורות לכהנים; נמצאו שני כתובים קיימים: אשם לה' ואשם לכהנים, ואומר "כסף אשם וכסף חטאות לא יובא בית ה' לכהנים יהיו". (מלכים ב' ו"ב)

פירוש רמ"ל

את נדרו אשר נדר קודם, אבל אם נדר ואמר הרי עלי איזה דבר, או יש שיעור קצוב שלא יפהות מזה, ואגב תשמיענו המשנה כי העורות של כל הקרבנות היו לכהנים, ובספרו של Buchler הנ"ל, ימצא הקורא כמה כהנים היו מתעסקים בזה והעשירות הגדולה שהיתה להכהנים מהעורות, וכמה לשכות מיוחדות שהיו בשביל זה במקדש, וכן מתי נתחלקו להכהנים ושהכהנים בעלי הזרוע גזלו את הכהנים העניים בלקחם לעצמם בזרוע את החלק היותר גדול, אם שהיו משמיטם עצמם מעבודת הקרבנות שהיתה עבודה קשה מאד, וכיום העורות היה רב מאד, (עיי"ש וחשתומם).

שער נשים, שער השיר. ולמה נקרא שמו שער יכניה? שבו יצא יכניה בנלותו. במזרח: שער ניקנור, ושתי פשפשין היו לו: אחד מימינו, ואחד משמאלו, ושנים במערב, שלא היה להן שם. שלשה עשר שולחנות היו במקדש: שמונה של שיש בבית המטבחים, שעליהן מדיחין את הקרכיים, ושנים במערב הכבש, אחד של שיש, ואחד של כסף; על של שיש, היו נותנים את האיברים, על של כסף, כלי שרת; ושנים באולם מבחוץ על פתח הבית: אחד שר שיש, ואחד של זהב; על של שיש, נותנין לחם הפנים בכניסתו, ועל של זהב, ביציאתו, שמעלין בקודש ולא מורידין; ואחד של זהב מכפנים, שעליו לחם הפנים תמיד:

(ה) שלשה עשר שופרות היו במקדש, וכתוב עליהם: תקלין חרתין, תקלין עתיקין, קינין, וגזולי עולה, עצים, ולבונה, זהב לכפורת, ושהה לנדבה. תקלין חרתין, שבכל שנה ושנה, ועתיקין, מי שלא שקל אישתקד שוקל לשנה הבאה; קינין, הן תורין, וגזולי עולה, הן בני יונה, כולן עולות, דברי רבי יהודה; וחכמים אומרים: קינין, אחד חטאת ואחד עולה, וגזולי עולה, כולן עולות.

(ו) האומר: "הרי עלי עצים", לא יפחות משני גזרין; "לבונה", לא יפחות מקומץ; "זהב", לא יפחות מדינר זהב, ששה

פירוש רמ"ל

וכהנים או ליום רבים היו מתכנסין לסתוח או לכגור אחד הדלתות, וענין השולחנות מבואר, ואמרו: "מעלין בקדש" הוא, מפני שלחם הפנים היה מונח בפנים על שולחן של זהב, הצריכו לו שולחן כזה גם בצאתו מן הקודש.

(ה) שלשה עשר שופרות, השופר הראשון היה כתוב עליו "תקלין חרתין" ר"ל בו צריכין להשליך את השקלים משנה זו בפני הגזבר, והשני היה כתוב עליו "תקלין עתיקין" לאמר: בו וישלכו השקלים שלא נגבו בשנה העברה ג' כ בפני הגזבר והוא מקבל ממנו קבלה, שיחזירו לו את עבוטו. השלישי היה כתוב עליו קינין, לאמר כי תחפץ לנדב על "קינין" וישליך נדבתו בו. הרביעי "גזולי עולה" ר"ל בו וישליכו המנדבים בעד תורים ובני יונה למזבח לצרכי עולה את נדבותיהם, החמישי "עצים" בו ויקבל נדבות על העצים למערכה, הששי כתוב עליו "לבונה" בשביל המנדבים נדבות על הלבונה, השביעי "זהב לכפורת" כי בו היו הנדבות שהתנדבו בשביל קדש הקדשים והכפורת שהיה שם. אלה המה השבעה שופרות הראשונים, והששה שהיו לסתם נדבה, גם עליהם היו חרותים שמות מיוחדים (לדעת הרמב"ם) והם: על הראשון "מותר השאת", ר"ל מו שהקדיש מעות להשאת ואחריו קנחתו נשארו לו עוד מהם היה משליכם בשופר הזה למען שמו הכסף הזה לא יוקח רק לצרכי השאת, השני "מותר אשם", השלישי "מותר קני זבין ויולדות", הרביעי "למותר קרבנות גזיר", והחמישי "מותר קרבן מצורע" שזהו כנ"ל, אם הפריש מעות למטרת אחד מהם וגשאריו בידו אחרי שהוציא מהם למטרת נדבתו יטיל הכותר כל אחד במקום המסומן למענה, ועל הששי היה כתוב "נדבה" כחם שמה היו לוקחין לכל הנצרך למקדש או למזבח. וכבר הפלוגתא יבין החכמים לר"י הוא כי החכמים כוברים שדעת המנדבים לקינון היא, שמכספם יקנו דבר שיצלה על המזבח כולי כלי, והרמב"ם אומר שההלכה כחכמים.

(ו) האומר הרי עלי, אחרי שנכתבו ענין השופרות השונים שהיו משתמשים לנדבות שונות תבאר, כי רק אז מותר להשליך להשופרות כמה שיחפץ ואפילו כל שהוא, אם אינו משלם

פרק ששי.

(א) עֲשֶׂה עֶשֶׂר שׁוּפְרוֹת, שְׁלֹשָׁה עֶשֶׂר שׁוֹלְחָנוֹת, שְׁלֹשׁ עֶשְׂרֵה הַשְּׁתָּחוּיֹת הֵיוּ בַּמִּקְדָּשׁ; שֵׁל בֵּית רֶכֶן נִמְלִיאֵל וְשֵׁל בֵּית רַבִּי חֲנִינָא סָנֵן הַכֹּהֲנִים הָיוּ מִשְׁתַּחֲוִים אַרְבַּע עֶשְׂרֵה; וְהֵיכָן הָיְתָה יִתְרָה? כִּנְגֵד דִּיר הָעֵצִים, שֶׁכֶּן מִסּוֹרֶת בִּידָם מֵאֲבוֹתֵיהֶם, שֶׁשֶׁם הָאֲדֹרֵן נִנְנוּ.

(ב) מַעֲשֶׂה בִכְהֵן אַחֵר, שֶׁהָיָה מִתְעַסֵּק, וְרָאָה הָרִצְפָּה שֶׁהָיָה מִשִּׁוְנָה מִחֲבֵרוֹתֶיהָ, כֹּא וְאָמַר לַחֲבִירוֹ, לֹא הִסְפִּיק לְנַמּוֹר אֶת הַדָּבָר עַד שִׁיצְתָה נִשְׁמָתוֹ, וַיִּדְעוּ בִּיחּוּד שֶׁשֶׁם הָאֲדֹרֵן נִנְנוּ.

(ג) ׀הֵיכָן הָיוּ מִשְׁתַּחֲוִים? אַרְבַּע בַּצָּפוֹן, וְאַרְבַּע בַּדְּרוֹם, שְׁלֹשׁ בַּמִּזְרָח וְשֵׁתִים בַּמַּעֲרָב, כִּנְגֵד יִ"ג שְׁעָרִים. דְּרוֹמִים, סְמוּכִין לַמַּעֲרָב: שְׁעַר הָעֲלִיּוֹן, שְׁעַר הַדֶּלֶק, שְׁעַר הַבְּכוֹרָה, שְׁעַר הַמִּים; וְלִמָּה נִקְרָא שְׁמוֹ שְׁעַר הַמִּים? שָׁבוּ מִכְּנוֹסֵין צְלוּחִית שֶׁל נֶסוּךְ מִים בַּחֲגֵ. רַבִּי אֱלִיעֶזֶר בֶּן יַעֲקֹב אָמַר: כּוֹ הַמִּים מִפְּכִין, וְעֵתִידִין לִהְיוֹת יוֹצְאִין מִתַּחַת מִפְתֵּן הַבַּיִת.

(ד) קְעוּמָתָן בַּצָּפוֹן סְמוּכִין לַמַּעֲרָב: שְׁעַר יִכְנִיָה, שְׁעַר קֶרֶבֶן,

פִּירוּשׁ רמ"ל

פרק ששי.

(א) שְׁלֹשָׁה עֶשֶׂר שׁוּפְרוֹת, כִּבְרָא אִמְרֵנוּ שֶׁהָיְתוּבוֹת שֶׁהָיוּ בָּהֶם כֶּסֶף הַשְּׁקָלִים אוֹ הַנְּדָבוֹת נִקְרָאִים שׁוּפְרוֹת מִפְּנֵי שֶׁהָיוּ קְצָרִים מִלְּמַעַל וְרַחְבִּים מִלְּמַטָּה שֶׁלֹּא תוּכַל יָד לִכְנֵס בְּתוֹכָהּ, וְכֵן הָיוּ עֹקֻמִּים מִטַּעַם זֶה, וְהַמִּשְׁנָה הַזֹּאת תִּסְפּוֹר אֶת כָּל מֵה שֶׁהָיָה בַּמִּקְדָּשׁ בַּמִּסְפָּר שְׁלֹשָׁה עֶשֶׂר הַמִּסְפָּר הַקָּדוֹשׁ לָהֶם, (כִּנְגֵד שְׁלֹשׁ עֶשְׂרֵה מִדּוֹת הַרְחֵמִים הַנּוֹכְרִים בַּמִּקְרָא, וְשִׁכְנָגֶד הַתִּקּוֹן ר' יִשְׁמַעֲאֵל שְׁלֹשָׁה עֶשְׂרֵה מִדּוֹת לְדְרוֹשׁ בָּהֶם אֶת הַתּוֹרָה), וּבַמִּשְׁנָה הִ' תִּפְרֹשׁ מֵה הָיָה הִ' שׁוּפְרוֹת מִשְׁתַּחֲוִיּוֹת, וְכֵן תִּפְרֹשׁ בְּאִיזָה מִקּוֹמָן הָיוּ הַהִשְׁתַּחֲוִיּוֹת. (מִן הַזֶּכֶן הַמִּשְׁנָה הַזֹּאת גִּרָא, כִּי יִרְעוּ מִלִּמּוּדֵי מִיטָאנָארוֹס בְּדִבְרֵי הַמִּסְפָּרִים וְהַמִּסְפָּר 13 הָיָה נֶחֱשֶׁב לֵאמֹר צֹלָח גַּם בִּימֵים הַקְּדֻמוֹנִים, וְלִמְנוּ הַזֶּכֶר מֶלֶךְ הַהֶמְנוֹן אֶת הָאִמּוּנָה הַטְּפֵלָה הַזֹּאת, תִּקְנוּ דְּבָרִים קְדוּשִׁים בַּמִּסְפָּר הַזֶּה, אוֹ אוֹרִי כּוֹנֵן בֹּהַ לְהַמְתִּיק רֹעַ מוֹלֹךְ שֶׁל הַמִּשְׁתַּחֲשׁ בַּמִּסְפָּר 13 בֹּהַ שִׁכְנוּנוֹהוּ לְדְבָרִים קְדוּשִׁים; וְגַם בּוֹמִנּוּ נֹסֶרֶת חֲבֵרָת בִּשְׁם "Thirteen-Club" הַמִּשְׁתַּחֲשִׁים כָּל הַדְּבָרִים רַק בַּמִּסְפָּר 13 לְהִרְאוֹת לְהַהֶמְנוֹן שֶׁאֵין כָּל חֵשֶׁשׁ וְכִנְנָה בּוֹ). וּבִמְס' מִדּוֹת יִתְבָּאֵר אִיפּוֹא הָיָה דִּיר הָעֵצִים.

(ב) מַעֲשֶׂה בִכְהֵן אַחֵר, הַכֵּהֵן הָיָה בַּעַל מוֹס וְכֹחַ לְעִבּוֹדֶת הַקְּרִבּוֹת וְרַק הָיָה מִתְעַסֵּק לְבַרֵר הָעֵצִים שֶׁהִתְחַלְּלִים אוֹ הַנִּרְקָבִים הָיוּ פְסוּלִים; וְכֵן הָיוּ מַפְצִלִין אֶת הָעֵצִים מִן הָעֵזֶר שֶׁעֲלִיהֶן לְמוֹכָח; וְהָאֲדֹרֵן נִנְנוּ עוֹד בַּמִּקְדָּשׁ אֲשֶׁר רָאוּ שֶׁאֵין עוֹד תְּקוּהָ שֶׁהִנְצֵל הָעֵזֶר וְהַמִּקְדָּשׁ מִיְדֵי הַכְּשִׁידִים, וְהַכֵּהֵן הָיָה מֵה, מִפְּנֵי שֶׁרָצָה לְגַלּוֹת אֶת הַחֹדֶר הַזֶּה; וְעַיִן בַּפֶּרֶק The Peas-tateuch etc., Chicago, 1894.

(ג) וְהֵיכָן הָיוּ מִשְׁתַּחֲוִים, הָאָמַר כִּי י"ג שְׁעָרִים הָיוּ בַּמִּקְדָּשׁ, הוּא אֲבָא יוֹסִי בֶן יוֹחָנָן, נֶצַח מִן הַכֹּהֲנִים הַגְּדוֹלִים שֶׁהָיוּ בַּמִּקְדָּשׁ שִׁנִּי, אֲכַל לְרֵעַת הַחֲכָמִים רַק שְׁבַעִת שְׁעָרִים הָיוּ וְהַהִשְׁתַּחֲוִיּוֹת הָיוּ כִּנְגֵד י"ג פְּרָצוֹת שֶׁפָּרְצוּ הַיּוֹנִים בְּכַהֲמָק וְכִית חֲשִׁמּוֹנָאֵי גְדָרוֹם; שֶׁלֹּכֵן גִּזְרוּ הַהִתְחַוּוֹת כִּנְגֵד הַפְּרָצוֹת הָאֵלֶּה כֵּינֵן הוֹדִיָה, וְאוֹרִים הַמִּשְׁנָה אֲשֶׁר הִתְחַבֵּר תִּשְׁעָה בִּשְׁמוֹתֵם וְשִׁנִּים בְּלֹא שֵׁם מִיּוֹתֵד וְאוֹמְרָתָאֵיפּוֹא הָיוּ בִּפְרָט, נִרָאָה כִּי כִדְבָרֵיהֶם כֵּן הָיָה (וְהַחֲכָמִים חִלְקוּ רַק מִהַשְׁעֵרָה וְלֹא מִהַקְּבֵלָה, וְרָאָה בַּחֲפִא"י עַל הַמִּשְׁנָה, וּפִירוּשׁוֹ בִּשְׁם אֲבִיו קֶשֶׁה לְחַלּוֹמֵן).

(ד) פִּשְׁפִּישִׁין, נִקְרָאִים דְּלָתוֹת קָטְנוֹת בְּתוֹךְ הַגְּדוֹלוֹת, כִּי הַגְּדוֹלוֹת הָיוּ כְּבָרִין וְקִשְׁיִן לְפָתוֹחַ

(ה) מי שאבד ממנו חותמו, ממתנין לו עד הערב, אם מצאו לו כדי חותמו, נותנין לו, ואם לאו, לא היו נותנים לו, ושם היום כתוב עליהן מפני הרמאין.

(ו) יציתי לשכות היו במקדש: אחת לשכת חשאים, ואחת לשכת הכלים; לשכת חשאים, יראי חטא נותנין לתוכה בחשאי, ועניים בני טובים מתפרנסין מתוכה בחשאי; לשכת הכלים, כל מי שהוא מתנדב כלי, זורקו לתוכה, ואחד לשלשים יום, נזכרין פותחין אותה, וכל כלי שמצאו בו צורך לבדק הבית, מניחין אותו, והשאר נמכרין בדמיה ונופלין ללשכת בדק הבית.

פירוש רמ"ל

(ה) מי שאבד ממנו חותמו, אם אבד חותם לא אמרו שיהיה יד הקדש על העליונה והמאבד חותמו לא ישיג כלום, כ"א בקרת היו עושים בהכסף הנפרה ואם היה הכסף יתר על החותמות שביד הנותן נסכים והסכום שלו שוה עם המעות שנתן הקונה בעד חותמו, היו נוהגין לו נסכים ועל החותם לא היו מקפידין אותו למצוא, כי היה כתוב עליו שם היום וצינו מועיל ליום אחר.

(ו) שתי לשכות, בתלמוד ירושלמי מביא ציורים יפים מן לשכת חשאים ויספר דברים רבים ממעשה הצדקה הזאת. והנה לשכות רבות היו במקדש בשמות מיוחדים אשר לא יחשכם פה, ואך לחשיבות שתי לשכות הללו ינקבם.

(ב) אין פוחתין משלשה נזבין ומשבעה אמרכלין, ואין עושין שררה על הציבור בממון פחות משנים, חוץ מכן אחיה, שעל חולי מעיים, ואלעזר שעד הפרוכת, שאותן קבלו רוב הציבור עליהן.

(ג) ארבעה חותמות היו במקדש, וכתוב עליהן: עגל, זכר, גדי, חוטא; בן עזאי אומר, חמשה היו וארמית כתוב עליהן: עגל, זכר, גדי, חוטא דל, וחוטא עשיר. עגל, משמש עם נסכי בקר, גדולים וקטנים וזכרים ונקבות; גדי, משמש עם נסכי צאן, גדולים וקטנים, וזכרים ונקבות, חוץ משל אילים; זכר, משמש עם נסכי אילים בלבד; חוטא, משמש עם נסכי שלש בהמות של מצורעים.

(ד) מי שהוא מבקש נסכים, הולך לו אצל יוחנן, שהוא ממונה על החותמות, נותן לו מעות, ומקבל ממנו חותם; בא לו אצל אחיה, שהוא ממונה על הנסכים, נותן לו חותם, ומקבל ממנו נסכים, ולערב באין זה אצל זה, ואחיה מוציא את החותמות, ומקבל כנגדן מעות, ואם הותירו הותירו להקדש, ואם פחתו, ישלם יוחנן מביתו, שיד הקדש על העליונה.

פירוש רמ"ל

והנה המשנה אינה מזכרת אם היו הממונים כהנים, לויים, או גם ישראלים היו כוהנים, וכבר דברו בזה הרבה הכמי זמננו, ואולם הרוצה לדעת את תכונת הכהנים והממונים האלו, ציבם ופבעם בפרוטרוף, עליו ליעין בספר Die Priester und der Cultus von Prof. Buchler Wien, 1895 ושמה יראה כי מספר הכהנים לבד עלו לא למאות ולא לאלפים, כי אם לעשרות אלפים, וכן מספר הלויים היה רב מאד, וכן על איזה דברים היו הממונים רק מהכהנים ועד איזה דברים גם מלויים וישראלים, ראה שם מצד 47-67, ואנחנו דברנו עוד מזה בסוף מס' שבת כדבר הו"ח גזירות שגזרו חכמים על הכהנים ועל התרומה.

(ב) אין פוחתין, סדר הנשיאות במקדש היו כן: המלך ואחריו הכהן גדול, ואחריו הכהן, ואחריו הקתליקון שהיו שנים, אחריהם האמרכלין שהיו שבעה, ואחריהם הגזבין שהיו רבים וגם תחתיהם היו מסוגים רבים. והנה משמרת כל אחד מהם מבואר בס' תמיד ויומא ובפרט בהספר הנזכר למעלה.

(ג) ארבעה חותמות, הנסכים לכל קרבן שונים היו כידוע, ולכל הנסכים היה כחור קצוב במקדש, והנה נסכי כבשים ועיזים גם הזכרים שבהם שוים היו וחוחם, גדי"ה היה מספיק גם להמניא קרבנו כבש, אבל לאילים היה נסך מיוחד גדול ממנו ולכן השתמשו בחוחם, זכר"ה שהיה כסן למי שקרבנו "איל", אבל בבקרים שוין הזכרים והנקבות הגדולים והקטנים ולכן השתמשו בחוחם, "עגל" למי שקרבנו מן הבקר. ועל קרבן המצורעים השתמשו בחוחם, "חוטא" (לרמז שהצורע באה מפני החטא) שעד העשיריים היה להביא שני אילים וכבשה אחת ונסכיהם, היה היותם חוטא מכפיק לתת להם את הנסכים שהוזכרו בתורה, אבל על הענינים המצורעים שלא היה להם להביא רק כבש אחד ושתי חורים, ורק עשרון אחד סולת ולוג שכן בלא יין, אמרו החכמים, כי לא היה צורך לסמן מיוחד; ובן עזאי היה אומר, כי חמשה חותמות היו שעל החמישי היה בהוב חושא = דל להבדילו משאר גדי הצריך גם יין ואומר שהיה כתוב עליהן ארמית ולא עברית וכלי ספק היתה קבלה בידו, כי כל הסמנים שמקדש היו ארמית וכן נראה מן המשנה עצמה בכל הסמנים (זמן רב אחרי עלותם מכיל דברו הכהנים רק ארמית וכן האשכולות עד אחר הלל ושמואי, וגם בעריות קבלו ערותם בארמית והציגו בדשונם, וראה בספר ביכנער הנ"ל).

פרק חמישי.

א) אלו הן הממונין שהיו במקדש: יוחנן בן פנחס על החותמות אחיה על הנסכים, מתתיה בן שמואל על הפייסות, פתחיה על הקינין. פתחיה זה מרדכי; למה נקרא שמו פתחיה? שהיה פותח בדברים ודורשן ויודע שבעים לשון. בן אחיה על חולי מעיים, נחוניה חופר שיחין, גביני כרוו, בן גבר על נעילת שערים, בן בכי על הפקיע, בן ארזא על הצלצל, הוגרוס בן רוי על השירה, בית גרמו על מעשה לחם הפנים, בית אבטינס על מעשה הקטורת, אלעזר על הפרוכת ופנחס על המלבוש.

פירוש רמ"ל

פרק חמישי.

א) אלו הן הממונין, לא בזמן אחד היו הממונין שהוא חושב במשנה, כ"א דורות רבים תפרידו ביניהן, אבל המשנה מזכרת רק הטובים והחסידים שהיו ממונין בכל דור, וענין החותמות יתבאר במשנה ד'. הפייסות, הן: שהיו הכהנים מטילין גורל ביניהם מי יעלה לעבוד עבודה זו ומי עבודה זו, והיו צריכין לממונה להחזיק הסדר ושהיה רשום אצלו מי יעלה לפייס היום ומי למחר. קינין הן הקרבנות שכל אשה יולדת היתה צריכה להקריב ומפני שהיו רבות צריכין היו לממונין גם כן להחזיק הסדר, שכל הבאה קודם תקריב קודם ושיתנו לה את הקינין במחיר הקצוב ולא ירבו עליהן, וגם היו מתערבין מפני ריבוי המביאין וחכמה רבה נצרכה להורות דיני תערובות האלה. ענין בפירוש תפארת ישראל. חולי מעיים היה דבר הרגול מאד במקדש, מפני שהיו הכהנים נושאים עליהם בעת העבודה רק הארבעה בנדים קרים, והיו הולכים יחפים על הרצפה של שיש ובין כה מוכרחים היו לאכול את בשר הקרבנות שלא יביאו קדשים ליד נותר, ולכן נחלו תמיד בחולי מעיים, והממונים היו רואים על כל אחד שנחלה להביאו למקום הרפואה ולמנות אחרים תחתיהם, ולכן היו ממונים רבים לזה, ופה נחשב מכל המדריגות רק הממונה הראשי שהכל היה נעשה תחת השגחתו. חופר שיחין, לא רק במקדש וירושלים כ"א בכל הארץ ובסוריא, להכין מים לעולי לרגל ולבאי מקדש. כרוו, הוא הממונה שהיה מכריז בעצמו, או מצות להכריז, כל עבודה ועבודה בזמנה. נעילת שערים, גם לזה היו ממונים הרבה, לנעול כל שער ולשמור את המקדש, כי כן היה המצוה לשמור את המקדש אף שלא בעת מלחמה וסכנה, כאשר יתבאר במס' תמיד, והממונים היו מעמידים כל שומר על מקומו שלא יישן ושילך סביב סביב במקום שהוגבל לו, ואם היו מוצאין את אחד מהם ישן, היו מלקין אותו ושוורפין את כסותו וזה היה נקרא פקיע שהיו לזה ממונים אחרים לבד הממונים על נעילת שערים. צלצל, המה התופים שהיו מכים בהם להשמיע בעת הקרבת הקרבנות, וכן היו מלויים את אחיהם הלויים בנגנם ככל זמר את המזמורים הראוים בעת הקרבת הקרבנות, ואך המנצח על השירים "קאפיל" מייכטער" היה ממונה אחר, לבד הממונים על התופים והמצלילים. מעשה הקטורת, שהיה נצרכה שתי פעמים, בכל יום וחוקנה היתה ענין ועסק גדול להרכיבה ולערכבה ממנה סממנים ושינוי כל אחד ואחד, ואך שיהיה ענין הקטורת עולה, ומן האומנין המצוינים בזה היו בית אבטינס, וכן לחם הפנים שהיו עושין י"ב חלות בכל שבוע היו צריכין לאומנין שלא יתקדשו מהרה בעת שהיו מונחים על שולחן של שיש, וגם צורתם ותכניהם, המבואר במס' תמיד, ולוי היה הממונין בית גרמו דורות הרבה שהיו מוסרין את אומנתם לבניהם, גם להפרוכת שהיו מהליפין אותו תדיר היה ממונה מיוחד לקבל אותו מהמנכים ולראות אומנתו ונקיונו ומלאכתו. גם היו אנשים רבים עסוקים כהלבשת הכהנים בכגריהם ומשיגיהם שהיו נקיים מפני חולי המעיים הרגילה במקדש, וכובסי הבגדים, שעל כולם היו ממונים מיוחדים. ולשכות רבות היו במקדש שהיו מיוחדות רק לכגרי הכהנים.

ונקבות ימכרו לצרכי זבחי שלמים, (ודמיהן יפלו עם שאר נכסים לבדק הבית); רבי יהושע אומר, זכרים עצמן יקרבו עולות, ונקבות ימכרו לצרכי זבחי שלמים, ויביאו בדמיהן עולות, ושאר נכסים יפלו לבדק הבית; רבי עקיבא אומר, רואה אני את דברי רבי אליעזר מדברי רבי יהושע, שרבי אליעזר השוה את מדתו, ורבי יהושע חלק; אמר רבי פפייס, שמעתי כדברי שניהן: המקדיש בפירוש, כדברי רבי אליעזר, והמקדיש סתם, כדברי רבי יהושע.

ח) המקדיש נכסיו, והיו בהן דברים ראויין על נבי המזבח: יינות, שמנים ועופות, רבי אליעזר אומר, ימכרו לצורכי אותו המין, ויביא בדמיהן עולות; ושאר נכסים יפלו לבדק הבית.

ט) אחת לשלשים יום משערין את הלשכה; כל המקבר עליו לספק סלתות מארבעה, עמדו משלש, יספק מארבעה; משלש ועמדו מארבעה, יספק מארבעה, שיר הקדש על העליונה; ואם התליעה סולת, התליעה לו, ואם החמיץ יין, החמיץ לו; ואינו מקבל את מעותיו, עד שיהא המזבח מרצה.

פירוש רמ"ל

כי דעת המקדיש הוא, אם גם סתם דבריו, כי למזבח יותר טוב מן בדק הבית שלכן הזכרים יקרבו לעולה בשם המנרב אבל נקבות הראויות רק לשלמים ואינו יכולין להקריב בשם המנרב, אם איננו בעת ההקרבה, לכן ימכרו לצורך הזה לאחר ובדמיהן יקרבו עולות בשם המנרב. ור"ע שדעתו לענין סתם הקדש כר"א, יאמר כי הוא רואה את דברי ר"א, אבל ר' פפייס כמכריע יאמר שאם הקדיש כל נכסיו סתם וביניהם היו בהמות למזבח ולא קראם בשם, אז כונתו כי כל אחד יקרב למקום הראוי לו, ויקרבו כדברי ר' יהושע, אבל אם פירש ואמר: "הנכסים וזה בזה מזה שלי כולם הקדש" ולא אמר מפורש כי בהמות יוקרבו למזבח, גלה בזה דעתו שכל נכסיו קדושה אחת הן, לבדק הבית; כי אם לא כן, כיון שקרא בהמות בשם, היה לו להוסיף עוד מלה אחת "למזבח". ובמשנה שאחריה סתם כר"א, מפני שיינות שמנים ועופות אין להם פדיון ולכן יקרבו בדמיהם עולות וכו'.

ט) אחד לשלשים יום, ענין זאת המשנה, שבכל חודש היו קורין את המוכרים שיסמנו את המחיר על כל דבר הנצרך למזבח ולבדק הבית על כל החודש, ולכל הממנע מחירו היו נותנין את הקרימה שיעמיד אותן למזבח ולבדק הבית; והמקחים שהיו קוצבים אותם היו על כל החודש, באופן שאם נתיקרו הדברים, היו סוכלים המוכרים את הנזק, אבל אם הויל השער, יד ההקדש על העליונה; והרשות היה לגבאים שלא לשלם רק כפי השער הזול, אם המוכרים העמידו להם בעת זול. ומה שאומרת ואם התליע, התליע להמוכרים, ר"ל אם גם קבלו את המעות היה עוד אחריותן עליהן, אבל בירושלמי אומר, כי המה היו מקבלין את המעות מיד, והכהנים זריון הם ולא הניחו את הסולת להתליע ואת היין להחמיץ.

קדשי הקדשים; רבי ישמעאל אומר, מותר הפירות קיין למזבח ומותר התרומה לכלי שרת; רבי עקיבא אומר, מותר התרומה קיין למזבח, ומותר נסכים לכלי שרת; רבי חנינא סנן הכהנים אומר, מותר נסכים קיין למזבח, ומותר התרומה לכלי שרת; זה וזה לא היו מודים בפירות.

(ה) מותר הקטורת מה היו עושין בה? מפרישין ממנה שכר האומנין, ומחללין אותה על שכר האומנין, ונותנין לאומנין בשכרן, וחוזרין ולוקחין אותה מתרומה חדשה; אם בא החדש בזמנו, לוקחין אותה מתרומה חדשה, ואם לאו מן הישנה.

(ו) המקדיש נכסיו, והיו בהן דברים ראויין לקרבנות הציבור יתנו לאומנין בשכרן, דברי רבי עקיבא; אמר לו בן עזאי אינה היא המדה, אלא מפרישין מהן שכר האומנין, ומחללין אותה על מעות האומנין, ונותנין אותן לאומנין בשכרן, וחוזרין ולוקחין אותן מתרומה חדשה.

(ז) המקדיש נכסיו, והיתה בהן בהמה ראויה לגבי המזבח, זכרים ונקבות, רבי אליעזר אומר, זכרים ימכרו לצרכי עורות,

פירוש רמ"ל

השנה, אם נשאר כסף משנה שעברה מה עושין בה? מותר הפירות, עתה ישא ויהן בדבר שאלה הדין מה היו עושין בהריוח שהריוחו מהנסכים כבמשנה הקודמת, ואומר ר' ישמעאל שהיו קובנין קרבנות אם קרה כה שהיה המזבח עומד בטל באין קרבנות חיוכים, אבל ר"ע האומר שאסור להריות ממעות הקדש אומר כי לקיץ המזבח היו לוקחין ממותר הכסף משנה שעברה, ומותר נסכים ר"ל מה שנשאר ממיצוי המדות של נסכים, (כי היו לוקחין כטורה גדולה ומקריבין מדה מהוקה) לכלי שרת, ור"ת סגן הכהנים דעת אחרת לו בזה. והנה מן המשנה הזאת (ורבות כרומה לה בכל המשניות) נראה כי בזמן המקדש היו הכהנים הממונים מחזיקים כל דבר כסוד ולא נודע דבר איך התנהגו, כי לולא זאת לא היתה המחלוקת מצויה תיכף אחר החורבן, ועוד יותר שר' ישמעאל היה כהן ואבותיו אלישע וישמעאל היו כהנים חשובים בזמן המקדש וכן ר' חנינא כהן הכהנים היה מן הכהנים החשובים, וגם הם לא ידעו את המנהג ואך חלקו בסברות. ושמור הכלל הזה בבואך לכמה משניות שתולקות בדבר המנהג ואין אחת מהן אומרת מפי הנסיון.

(ה) מותר הקטורת, ר"ל הנשאר בסוף השנה משנה שעברה ומשנה החדשה היו משתמשים בקטורת הנקנות משקלים החדשים, ויען כי מרת הקטורת היא מלא חפניו ואין הידים בגדלן ורחבן שוות, וכהן שהיר שלו קטנה היה ג"כ נוטל רק מלא חפניו, היה נשאר בכל שנה איות מדות כממני הקטרת.

(ו) כל המקדיש נכסיו, סתם הקדש יאמר ר"ע הוא לברק הבית ולכן מיקל אם גם היו בין חפצי הקדש דברים הראויים למזבח, כמו כממני הקטרת ולא הצריכם להיות קרבים על המזבח, ואולם בדברים חיים הראויים למזבח וכן גם יינות ידובר בזה בהמשניות לקמן, ואולם בן עזאי מחמיר גם בסממני הקטרת. מרעתו, כי דעת המקדיש נכסיו כודאי נוטה יותר שיקרבן דברים הראויים למזבח, על המזבח עצמו; אשר לכן מבקש חילולם על מעות האומנין וחוזריו ולוקחין אותה מתרומה חדשה שעי"ז יכנו כודאי לדעת המקדיש.

(ז) זכרים ימכרו לצרכי עולות, גם ר"א סובר כי סתם הקדש הוא לברק הבית, אבל עכ"ז ידמה כי הדברים עצמם הראויין למזבח לא יצאו מיד המזבח אם גם שוים יעלה לברק הבית שלכן מצריך למוכרם לצורך המזבח עצמו. ואך ר' יהושע הסובר ככן עזאי בזה, יאמר

פרק רביעי.

(א) הַתְּרוּמָה מֵהָהָיו עוֹשִׂין בָּהּ? לֹקְחִין בָּהּ תְּמִידִין, מוֹסְפִין וְנֹסְכִיהֶם, הָעוֹמֵר, וְשֵׁתִי הַלֶּחֶם, וְלֶחֶם הַפִּנִּים, וְכָל קֶרְבָּנוֹת הַצִּיּוֹר. שׁוֹמְרֵי סְפִיחִים בִּשְׁבִיעִית, נוֹטְלִין שְׂכָרָן מִתְּרוּמַת הַלֶּשְׁכָּה; רַבִּי יוֹסִי אוֹמֵר, אֵף הָרוּצָה מִתְּנַדֵּב שׁוֹמֵר חֵנֶם; אֵמְרוּ לוֹ, אֵף אֶתָּה אוֹמֵר שְׂאִין בְּאֵין אֵלָא מִשַּׁל צִיּוֹר.

(ב) פֶּרֶה וְשַׁעִיר הַמִּשְׁתַּלַּח וְלֶשׁוֹן שֶׁל זְהוּרִית בְּאֵין מִתְּרוּמַת הַלֶּשְׁכָּה. כִּבֵּשׁ פֶּרֶה, וְכִבֵּשׁ שַׁעִיר הַמִּשְׁתַּלַּח, וְלֶשׁוֹן שֶׁבִין קֶרְנָיו, וְאֵמֶת הַמִּים, וְחֹמַת הָעִיר וּמִגְדְּלוֹתֶיהָ, וְכָל צוּרְכֵי הָעִיר בְּאֵין מִשִּׁירֵי הַלֶּשְׁכָּה; אֲבָא שְׂאוּל אוֹמֵר: כִּבֵּשׁ פֶּרֶה כְּהֵנִים גְּדוֹלִים עוֹשִׂין אוֹתָן מִשַּׁל עֲצָמָן.

(ג) מִזֹּתֵר שִׁירֵי הַלֶּשְׁכָּה מֵהָהָיו עוֹשִׂין בָּהּ? לֹקְחִין בָּהּ יֵינוֹת שְׂמָנִים וְסִלְתוֹת, וְהַשְּׂכָר לְהַקְדֵּשׁ, דְּבָרֵי רַבִּי יִשְׁמַעֲאֵל; רַבִּי עֲקִיבָא אוֹמֵר, אֵין מִשְׁתַּכְּרִין בִּשַׁל הַקְדֵּשׁ, וְלֹא בִשַׁל עֵינִים.

(ד) מִזֹּתֵר הַתְּרוּמָה מֵהָהָיו עוֹשִׂין בָּהּ? רְקוּעֵי זֶהב צִיּוּפֵי לְבִית

פִּירוּשׁ רַמ"ל

פרק רביעי.

(א) שׁוֹמְרֵי סְפִיחִים בִּשְׁבִיעִית, הָעוֹמֵר וְשֵׁתִי הַלֶּחֶם אֲשֶׁר דִּינָם, כִּי יִבְּאוּ רַק מֵאֶרֶץ יִשְׂרָאֵל וְדוֹקָא מִן תְּבוּאָה הַחֲדָשָׁה שֶׁגִּדְּלָה בְּזוֹ הַשָּׁנָה, מֵאֵין הָיוּ לֹקְחִים אוֹתָם בִּשְׁנַת הַשְּׁבִיעִיָּה שֶׁאֵין לָא זֶרְעוֹ וְלֹא קִצְרוֹ? הָיוּ שׁוֹלְחִים תְּרוֹם לְרֹאוֹת בְּאִיּוֹה מְקוֹם גְּדִלִים תְּבוּאָה מֵהַשְּׁנִיעִיָּה בִּשְׁנַת הַקְּדוּמָּה שֶׁנִּקְרָאת בִּלְשׁוֹן הַמִּקְרָא (וַיִּקְרָא כ"ה) סְפִית וְלִשְׁמוֹר אוֹתָהּ שְׁלֹא תִשְׁלֹשׁ בָּהּ יָד אַחֶר לַעֲקֶרֶה קוֹדֵם שׁוֹבֵב הַקֶּרֶן מִמֶּנָּה, מִפְּנֵי שֶׁבִּשְׁנַת הַשְּׁבִיעִיָּה הַכֹּל הוּא הַפָּקֵר וְאֵין רִשּׁוֹת לִבְעַל הַשָּׂדֶה לִבְלִי לְהַנִּיחַ אַחֵרִים אֶת הַתְּלוּשׁ אֶת הַצִּמְחִים וְהַתְּבוּאָה. הַתְּרוֹם וְהַשְּׁמוֹרִים הִלְלוּ הָיוּ מִקְבָּלִים שְׂכָרָם מִתְּרוּמַת הַלֶּשְׁכָּה, וְכִסֵּף הוּא נִהְשָׁב כְּאֵלּוֹ קֶנוֹ בּוֹ אֶת הַתְּבוּאָה שִׁישׁ לִבְלִי אֶחָד הֵלֵךְ בָּהֶם. וְר' יוֹסִי הָאוֹמֵר שֶׁמִּתְּנַדֵּב אֵדָם לְהוֹיֹת שׁוֹמֵר חֵנֶם סוֹבֵר שֶׁקֶרֶן יַחֲדֵי מִשְׁתַּנָּה לְהוֹיֹת שֶׁל צִיּוֹר זֶם הוּא מִתְּנַדֵּב אוֹתוֹ אֲבָל אֵין הֵלֵכָה כְּמוֹתוֹ בְּעוֹמֵר וְשֵׁתִי הַלֶּחֶם, אִם כִּי בִשְׂאֵר קֶרְבָּנוֹת מוֹתֵר לִקְחַת מִשַּׁל יַחֲדֵי אִם הוּא מִתְּנַדֵּב אוֹתָם לְצִיּוֹר בְּעֵין יִפָּה (רֵאָה ר"ה).

(ב) פֶּרֶה וְלֶשׁוֹן שֶׁל זְהוּרִית, מוֹתֵר הַכֶּכֶּה שְׁלֹא הִיָּה נִכְנָס לִשְׁלֹשׁ הַכּוֹת הַגְּדוֹלוֹת שׁוֹכְרֵנוּ לְמַעֲלָה, נִקְרָא שִׁירֵי הַלֶּשְׁכָּה וְהָיוּ נוֹהֲנִין אוֹתוֹ בְּמִקְוֵי גְבוּהָ, שֶׁהָיוּ עוֹלִים עָלָיו ע"י אֱלֹמְנָק בְּלֹא מַעֲלוֹת; וְהַכִּסֵּף הוּא הָיוּ עוֹשִׂים כִּבֵּשׁ לְפָרָה אֲדוּמָה, שֶׁיִּטְבוּ יִתְבָּאֵר בִּמְשַׁנַּת פֶּרֶה אֲדוּמָה, וְכֵן הַכִּסֵּף לְשַׁעִיר הַמִּשְׁתַּלַּח לְעִזְאוֹל וְלִלְשׁוֹן שֶׁבִין קֶרְנָיו שֶׁיִּטְבוּ יִתְבָּאֵר בְּיוֹמָא, וְכֵן לְאֵמֶת הַמִּים וְלַחֲמוֹת הָעִיר יִירוּשָׁלַם אִם הָיוּ צִיּוֹכִים תּוֹקָן.

(ג) מוֹתֵר שִׁירֵי הַלֶּשְׁכָּה, ר"ל אִם אַחֶר כָּל אֵלֶּה עוֹד נִשְׂאֵר כִּסֵּף חוּץ לְלִישְׁכָּה מֵהָהָיו עוֹשִׂין בּוֹ? לֹקְחִין יֵינוֹת, כָּל מִי שֶׁמִּכּוֹב קֶרֶן, עָלָיו לִקְנוֹת יוֹן לְנֶכֶד עַל הַמִּזְבֵּחַ וְסוֹלַת וְשִׁמּוֹן לְמִנְחָה, וְכָל אֵלֶּה הָיוּ קוֹנִים בְּעוֹרָה בְּכִסֵּס, וְהַמִּשְׁנָה הַזֹּאת אוֹמֵרֶת, כִּי בֵּינָה מוֹתֵר הַכִּסֵּף שֶׁל שִׁירֵי הַלֶּשְׁכָּה, הָיוּ קוֹנִין יוֹן שְׂמָנִים וְסִלְתוֹת לְמַכִּירָה לְהַמְקָרִיבִים, לְמַעַן יִרְוִיחוּ מִיַּעַת לְהַקְדִּישׁ, אֲבָל ר"ע הוֹלֵךְ וְאוֹמֵר, שֶׁאֲסוּר לַעֲשׂוֹת כַּחֲזוֹרָה בְּמַעֲוֹת הַקְדֵּשׁ וְכֵן בְּמַעֲוֹת שֶׁל עֵינִים, וּבִירוּשָׁלַם חוֹשֵׁב דְּבָרִים רַבִּים מֵהַשְּׁעִשׂוֹ בְּמוֹתֵר כִּסֵּף הַשְּׁקָלִים כְּמוֹ שֶׁכָּר לִימּוֹר הַלְכוֹת שְׁחִיטָה, הַלְכוֹת קֶרְבָּנוֹת, וְכֵן לְבָקֵר אֶת מוֹמֵי הַקֶּרְבָּנוֹת שֶׁכָּל אֵלֶּה הָיוּ לֹקְחִין מִמַּעֲוֹת שִׁירֵי הַלֶּשְׁכָּה; וְעוֹד כְּמוֹ אֵלֶּה, (רֵאָה שֶׁם הֵלְכָה ד' בֹּהַ הַפָּרָק).

(ד) מוֹתֵר הַתְּרוּמָה, ר"ל אִם הִגִּיעַ אֶחָד בְּנִסָּן שֶׁכָּבֵר יֵשׁ תְּרוּמָה חֲדָשָׁה מִשְׁקָלִים שֶׁבּוֹ

ויאמרו מעון הלשכה העני, או שמא יעשיר, ויאמרו מתרומת הלשכה העשיר, לפי שאדם צריך לצאת ידי המקום, בדרך שצריך לצאת ידי הבריות, שנאמר: 'והייתם נקיים מה' ומישראל'. (כמדבר ל"ב.) ואומר: 'ומצא חן ושכל טוב בעיני אלהים ואדם' (משלי ג).
 ג) ע"ל בית רבן גמליאל נכנס, ושקלו בין אצבעותיו, וזורכו לפני התורם, והתורם מתכוין ודוחפו לקופה. אין התורם תורם, עד שיאמר להם: אתרום? והן אומרים לו: תרום! תרום! תרום! שלש פעמים.

ד) תרם את הראשונה ומחפה בקטבלאות, שניה ומחפה בקטבלאות, שלישית לא היה מחפה, שמא ישכח את התרום ויתרום את דבר התרום. תרם את הראשונה לשם ארץ ישראל, והשניה לשום כרכים המוקפין לה, שלישית דשום בכר, ולשום מדי, ולשום מדינות הרחוקות.

פירוש רמ"ל

ג) שק בית ר"ג נכנס, כלומר כל אחד מבית ר"ג בעת שהיה נותן שקליו היה מתנהג כן.

ד) ויתרום את דבר התרום, כלומר מן הקופה הראשונה שכבר התחיל ממנה בפעם

הראשונה.

פרק שלישי.

(א) בשלשה פרקים בשנה תורמין את הלשכה, בפרוס הפסח בפרוס עצרת, בפרוס החג, והן גרנות למעשר בהמה, דברי רבי עקיבא; בן עזאי אומר בעשרים ותשעה באדר, ואחד בסיון, ובעשרים ותשעה באב, רבי אלעזר ורבי שמעון אומרים באחד בניסן, באחד בסיון, בעשרים ותשעה באלול. מפני מה אמרו בעשרים ותשעה ולא אמרו באחד בתשרי? מפני שהוא יום טוב, ואי אפשר לעשר ביום טוב לפיכך הקדימוהו לעשרים ותשעה באלול.

(ב) בשלש קופות, של שלש שלש סאין תורמין את הלשכה, וכתוב בהן: אלה, בית, גימל; רבי ישמעאל אומר, יוניח כתוב בהן: אלפא, ביתא, נמלא. אין התורם נכנס, לא בפרגוד חפות, ולא במנעל, ולא בסנדל, ולא בתפילין, ולא בקמיע, שמא יעני,

פירוש רמ"ל

פרק שלישי.

(א) בשלשה פרקים כו', ענין הפרק הזה הוא סדר הוצאות השקלים על הקרבנות שהיו משתדלים לערבב את כסף השקלים שיהיה לכל אחד מישראל חלק בקרבנות ציבור לבד התנאי שהותנה כרלגיל, וכן היו עושין: שאחרי שכבר גבו את כל השקלים בחתולת ניסן היו ממלאים מהכסף הזה שלש הכיות גדולות, ערך תשעה סאין כל אחת, והיו מכסין אותן במטפחות, ואח"כ היו מביאין שלש קופות קטנות כל אחת ג' סאין והיו ממלאין את הקופות הקטנות שהיו מסומנות בשלש אותיות א. ב. ג. בעברית או ביונית, כל אחת ואחת מהחביות הגדולות, ומהקופות הקטנות היו מוצאין את הכסף לקנות בהן קרבנות ציבור; והמילוי פעם הראשונה היתה בש"ו בניסן שהוא חצי חודש קודם הפסח, וכן היו עושין ש"ו ימים לפני חג השבועות, אך בעת אשר מלאו אותם שנית התחילו מן החביות האחרונה שמשם מלאו בפעם הראשונה את הקופה המסומנת באות ג', מלאו עתה את הקופה המסומנת באות א. ואח"כ מלאו מן השניה שהיתה קודם ראשונה לקופה המסומנת באות ב. ומן השלישית שהיתה מקודם שניה לקופה המסומנת באות ג. ועשו זאת כדי לערבב הכספים שיהיה לכל אחד חלק בקרבנות ציבור או בדרך הבית, שלכן בכל פעם כבואו לשלישית לא היה מכסה אותה לסימן, שממנה יתחיל לעתיד, ותרם את הראשונה לשם ארץ ישראל הקרובה יותר לירושלים והשנייה לשם הכרכים המוקפות חומה הרחוקות מארץ ישראל, והשלישית בשביל כל מדינות הרחוקות מפני שכל הקרוב קרוב קודם; אך עכ"ז היו המעות מעורבין והיה לכ"א מישראל חלק בהם, וכ"ז היו עושין בפרוס גדול למען לא יהיה שום חשד על הגבאים, וההודם או גם כל הנכנס ללשכה שבה היה הכסף, היו מחויבין להכיר מהם כל הגברים שיש בהם איזה כוס וגם לא במנעל וסנדל או פוטמקאות מקום שיכולים להסתיר הכסף ולא גם בתפילין ובקמיע שיש בהם קמנים ותיבות קטנות ששמה יכולים להסתיר הכסף, והכל בשביל הכתוב והיותם נקיים וגו'. בפרוס עצרת בפרוס החג, מפני שהקרבנות בשבעת ימי הפסח רבו לכן היו מוכרחים לפתוח את הקופה השניה בש"ו באייר, אבל חג השבועות שהוא רק יום אחד ולא רבו הקרבנות מכסף הצבור, לכן היו מעות הקופה השנית סכפיקות עד חצי אלול שאז או פתחו את הקופה השלישית. והן גרנות למעשר בהמה, כלומר הזמנים הללו והולדות של בהמות הם כמו עומדות בגורן ואכור לשהמן ולאכול מהן טרם הופיש המעשר, אבל בין הזמנים הללו רשאים היו לאכילה גם קודם הפרשת המעשר. והטעם שקבעו את אלו הזמנים למעשרות, הוא מפני שאז הללו עולי רגלים עלות לירושלים ודאגו כשבילים שיהיו הבהמות מצוים להם לקניה. בן עזאי אומר, בן עזאי ור"א ור"ש חולקים בזה רק מפני גרנות המעשר, שלדעתם המעשר ינתן רק אז.

להן קצבה, לחטאת אין לה קצבה; רבי יהודה אומר אף לשקלים אין להן קצבה, שכשעלו ישראל מן הגולה היו שוקלין דרכונות, חזרו לשקול סלעים, חזרו לשקול מבעין, ובקשו לשקול דינרין; אמר רבי שמעון, אף על פי כן יד כולן שוה, אבל חטאת, זה מביא בסלע, זה מביא בשתים, וזה מביא בשלש.

ה) מותר שקלים חולין, מותר עשירית האיפה, מותר קיני זבין, קיני זבות וקיני יולדות וחטאות ואשמות, מותריהן נדבה. זה הכלל, כר שהוא בא לשם חטא ולשם אשמה מותריהן נדבה, מותר עולה לעולה, מותר מנחה למנחה, מותר שרמים דשלמים, מותר פסח לשלמים, מותר נזירים לנזירים, מותר נזיר לנדבה, מותר עניים לעניים, מותר עני לאותו עני, מותר שבויים לשבויים, מותר שבוי לאותו שבוי, מותר המתים למתים, מותר המת ליורשיו. רבי מאיר אומר מותר המת יהא מונח עד שיבא אליהו; רבי נתן אומר מותר המת בונין לו נפש על קברו.

פירוש רמ"ל

„והעשיר לא ירבה כתיב“, ור' יהודא חולק ואומר שגם לשקלים אין להם קצבה כי הכל לפי כסף המדינה ואם החליטו בדעתם לשקול דרכון תחת חצי שקל הרשות בידם, אבל ע"ז חשוב ר' שמעון טענה נכונה, שגם אז יש להם קצבה כי כולם אינן רשאים לשקול רק במטבע שהוחלטה, משא"כ חטאת שאין לו כל מטבע, ובעד כמה שירצה יקריב.

ה) מותר קיני כו', אחריו שהביא המסדר את המשנה את דעת ב"ה וכ"ש וידוע הוא שההלכה כב"ה, וביא את המשנה הזאת שסתמה כב"ה שמותר השקלים הוא חולין; ומפרש הדין מן הנותר על כל דבר שבצדקה שכולם מכימים ורק על מותר המת, ר"ל מה שהקדישו בעדו לקבורתו, יערער ר"מ ויאמר כי יהא מונח עד שיבא אליהו, מפני כי הכסף הזה לא נתן בשביל היורשים והמת כבר נקבר; ור"ג אומר כי בנין הציון הוא ג"כ כבוד המת, ואולם כל הדברים הללו תמה אם היה הכסף של יחיד, אבל אם היה מטעות העיר, הפרנסים ברוב דעות, ויכלו לשנות את כסף הצדקה כמו משבויים לעניים ולהיפך.

פרק שני.

- (א) מצרפין שקלים לדרכונות מפני משוי הדרך. כשם שהיו שופרות במקדש, כך היו שופרות במדינה. בני העיר ששקלו את שקליהן ונגנבו או שאבדו, אם נתרמה תרומה נשבעין לגזברים ואם לאו נשבעין לבני העיר, ובני העיר שוקלין תחתיהן. נמצאו, או שהחזירם הגנבים, אלו ואלו שקלים ואין עולין להם לשנה הבאה.
- (ב) קנותן שקרו לחבירו לשקול על ידו, ושקלו עד ידי עצמו, אם נתרמה תרומה מעל; השוקר שקלו ממעות הקדש, אם נתרמה התרומה וקרבה הבהמה מעל, מדמי מעשר שני ומדמי שביעית יאכל כנגדן.
- (ג) קמכנס מעות ואומר: "הרי אלו דשקלי", בית שמאי אומרים מותר נדבה, ובית הלל אומרים מותר חולין; "שאביא מהן לשקלי", שוין שהמותר חולין; "אלו לחטאת", שוין שהמותר נדבה, "שאביא מהן לחטאת", שוין שהמותר חולין.
- (ד) אמר רבי שמעון מה בין שקלים לחטאת? לשקלים יש

פירוש רמ"ל

פרק שני.

- (א) מצרפין שקלים לדרכונות, הרכונן היה מטבע של זהב משקל שני סלעים ונקרא בל' יון "דארייקאס", והתיבות היו כעין שופרות קצר מצד אחד ורחב מצד השני, מפני שהיו נותנין להם את התיבות סגורות ונגד העליון היה רק נקב כגודל הרכונן בעביו ולא ברחבו והיו משליכין שם הרכונות אך לא היו יכולים לקחתם משם בעת שהיו סגורות. ואמרו "מצרפין" ר"ל שאם בני העיר החליפו את שקליהם בדרכונות אינם חייבים בקלבונות; כי מפני משוי הדרך היו הגזברים מחויבים לעשות כן ולכן אין מזה נזק להקדש. אם נתרמה תרומה, ר"ל אם כבר הוציאו חלק מכסף השקלים על קרבנות או בדק הבית, שאז נחשבו גם אלו השקלים כאלו היה בין אלה שהוציאו (כי כן היה התנאי ביניהם שבכל שקל יש חלק מכל אחד ואחד הנותן שקלים למען יהיה לכל אחד חלק בהקרבן או בדק הבית), ולכן אם כבר הוציאו מכלל השקלים שהיו מתחלקים לשדש קופות והיו משתמשים בקופה אחת לכל דבר הצריך עד שתתם הקופה כדלקמן, אז נשבעים לגזברים, כי השקלים כבר המה שייכים להם גם אם לא הגיעו לידם, אבל אם לא נתרמה התרומה, אז יהשבו השקלים של בני העיר עד שיוגיעו ליד הגזברים, והשעם הזה היא גם במשנה שלא הרירה שאם נתן לו חברו לשקול ושקל על ידי עצמו מעל בהקדש, מפני שהיו מקריבין גם על העהיד לגבות כי היו ממשכנין על השקלים אף את העניים שבישראל, (רמב"ם).
- (ב) יאכל כנגדן, ר"ל יקח מכסף החולין שלו את הסכום מעות שהיו בידו מהמעשר ויאמר: הרי אלו תחת אלה השקלים שלקחתי מהם למהצית השקל, ויעשה בהם את חובתו.
- (ג) המכנס וכ', תוכן המשנה הזאת הוא: כמי שמתחיל לקבץ פרושות על יד, ואומר "מהכסף הזה אקח לשקלי" שדעת בית הלל אחרי שכבר שקל את המחויב מהסכום הנקבין, המותר חולין; ודעת ב"ש: גם אז אם רק יחד אותם לבדנה משאר הכסף, מותר נדבה, אבל במי שאותו בידו כסף רב ואומר הרי אלו לשקלי, מותר נדבה אפילו לבית הלל, (ירושלמי ורמב"ם).
- (ד) אמר ר' שמעון, נותן טעם לדברי ב"ה שגם לדעתם בחטאת אם גם קובץ על יד מותר נדבה, מפני שאין קצבה לחטאת ויכול לקנות גם כמאד סלעים, משא"כ שקלים יש להם קצבה

בהמה, וכשחייבין במעשר בהמה פטורין מן הקלבון; וכמה הוא קלבון? מעה כסף, דברי רבי מאיר, וחכמים אומרים חצי (מעה).

פירוש רמ"ל

ולדות מאדם אחר, או גם אם חלק בנכסי אביו וקבל את הולדות מעזבונו אינו חייב במעשר מפני שאנו חושבין את הולדות כאלו כל אחד מהאחים קנה אותם מאחיו, (כן השותפים רק או חייבים במעשר בהמה בעת שהמה שותפים אבל כאשר נתחלקו והשכו הולדות כאלו כל אחד קנה אותם משותפו) ומובן מאליו שבעת שהאחים חמה ביחד יחשבו כאדם אחד, שגל כן אינם חייבים בקלבון אם נותנים סלע בעד שניהם, מפני כי כספם הוא של אביהם ולא של עצמם כ"ז שלא חלקו ויחשב מה כאלו אביהם שוקל בעדם, שאז הוא פטור מקלבון.

וחמשה ישבו במקדש. משישבו במקדש התחילו דמשיכו. את מי ממשכנין? ליום וישראלים, גרים ועבדים משוחררים, אבל לא נשים ועבדים וקטנים. כל קטן שהתחיל אביו לשקול על ידו, שוב אינו פוסק, אין ממשכנין את הכהנים מפני דרכי שלום.

(ד) אמר רבי יהודה העיר בן בוכרי ביבנה: כל כהן ששוקל אינו חוטא, אמר לו רבי יוחנן בן זכאי לא כי, אלא כל כהן עשינו שוקל חוטא, אלא שהכהנים דורשים מקרא זה לעצמן (ויקרא ו'): "וכל מנחת כהן כליל תהיה לא תאכל", הואיל ועומר ושתי הלחם ולחם הפנים שלנו, היאך נאכלים?

(ה) אף על פי שאמרו אין ממשכנין נשים ועבדים וקטנים, אם שקלו מקבלין מידן, העכו"ם והכותים ששקלו אין מקבלין מהן, ואין מקבלין (מידן) קיני זבים וקיני זבות וקיני יולדות וחטאות ואשמות, (אבל נדרים ונדבות מקבלין מידן), זה הכלל: כל שנידר ונידב מקבלין מידן, כל שאין נידר ונידב אין מקבלין מידן, וכן הוא מפורש על ידי עזרא, שנאמר (עזרא ד'): "לא לכם ולנו לבנות בית לאלהינו".

(ו) קאלו שחייבין בקלבון: ליום וישראלים, גרים ועבדים משוחררים, אבל לא כהנים ונשים ועבדים וקטנים. השוקל על ידי כהן, על ידי אשה, על ידי עבד, על ידי קטן פטור, ואם שקל על ידו ועל יד חברו, חייב בקלבון אחד; רבי מאיר אומר שני קלבנות. הנותן סלע ונוטל שקל חייב שני קרבנות.

(ז) השוקל על ידי עני ועל יד שכנו ועל יד בן עירו פטור, ואם הלון חייב. האחין והשותפין שחייבין בקלבון פטורין ממעשר

פירוש רמ"ל

(ד) שלנו, כלומר יש לנו חלק בהם, היאך חיינו יכולים לאכול אותם? ובאמת היתה הסענה הזאת שוא, מפני שהכל הולך אחר הרוב ורובא דעלמא אינם כהנים; אבל המה היו המושלים ודרשו לטובת עצמם ומפני דרכי שלום הניחו אותם.

(ה) ואין מקבלין מידן קיני זבים, כלומר על הכותים (שטרונים) לבד (כן יפרש בירושלמי ורמב"ם). לא לכם ולנו לבנות בית לאלהינו, ומפני שהשקלים היה גם לבדק הבית לא רצו כי יהיה להם חלק בבית המקדש, אבל נדרים, עולות לקרבן, או חטאות ואשמות שמתקריבין אותם בשבילם לכפרה להם, מקבלין מהם, שבות אין הבדל בין איש לאיש.

(ו) סלבון, השקל הנזכר בתורה הוא הסלע הנזכר במשנה, והיה שוה שני שקלים הנקראים במשנה, ומפני שתהיה יד הקדש תמיד על העליונה, וחששו שם אין משקל השקל של המשנה שוה למשקלו של הצאי שקל האמור בתורה (לדעת הרמב"ם לא פחות מן 192 גרעיני שעורה) לכן הצריכו שיתן הכרע פטע לכל הצאי שקל, וההכרע הזה נקרא קלבון מן יונית "קאלאבוס", וכל השוקל רק ממדות חסירות ולא מפני שהוא חייב ע"י דין, אינו נותן אותו קלבון, והכהנים שהיו אומרים שאינם חייבים בשקלים, החסידים שבהם שהיו נותנים, לא היו לוקחים מהם את הקלבנות, מפני דרכי שלום.

(ז) השוקל על ידי עני, ר"ל נותן מהנה בשבילו, שהוא רק בדת חסירות ולא הויב, לכן פטור מקלבון. האחין והשותפין וכו', נגשר בדמיה ויתן אך מהנולד אצלו, אך אם קנה

מסכת שקלים.

(א) באחד באדר משמיעין על השקלים ועל הכראים, בחמשה עשר בו, קורין את המגילה בכרכין ומתקנין את הדרכים, ואת הרחובות ואת מקואות המים, ועושין כל צרכי הרבים, ומציינין את הקברות ויוצאין אף על הכלאים.

(ב) אמר רבי יהודה, בראשונה היו עוקרין ומשליכין לפניהם, משרבו עוברי עבירה, היו עוקרין ומשדיכין על הדרכים, התקינו שיהו מפקרין כל השדה כולה.

(ג) בחמשה עשר בו, שולחנות היו יושבין במדינה; בעשרים

פירוש רמ"ל

(א) באחד באדר משמיעין על השקלים, שיתרומו אותם באחד בניסן, זמן נתינת השקלים, שנאמר, ויהי בהודש הראשון באחד לחדש הוקם המזבח (שמות ט'), וחני עלה (בירושלמי), כיום שהוקם המזבח בו כיום נתרמה תרומה. ועל הכלאים, מכריוזין להזהר מתערובות, משום שבעת הזאת זמן הזריעה קרוב לבוא. בט"ו בו קורין את המגילה בכרכים, אבל בפרוזת קורין ב"ד, ולא היה צורך להזכיר זאת במשנה מפני שרוב הערים אינן מוקפות חומה ולא חיישינן לשכחה, אבל בערים המוקפות חומה שהנח מעשות וקרוב לשכחה, לפיכך הזכיר זאת במשנה שידעו בכרכים את זמן קריאת המגילה, כי אם גם קראו אותה ב"ד חייב לקרותה עוד הפעם בט"ו כאשר כן היא ההלכה פסוקה בירושלמי, אמר ר' מני ויאות"ו, ואולם אחרי כל הרחוקים שדחקו עצמם המפרשים החדשים לפרש את מאמר התלמוד בירושלמי שהמשנה באה ללמדנו, שכל המצות הנוהגות באדר שני, אינן נוהגות באדר ראשון, אינו יודע איככה מוכח זאת מהמשנה. ומתקנין את הדרכים, אחרי שעברו ימות הגשמים ונתקלקלו ובפלישתניא זמן גשמים הוא רק עד אדר, והוא הטעם לרחובות ומקואות, שהרחובות נתקלקלו ובמקואות נפל הרפש, וצריכין נקוקתן, למען יוכלו לטהר עצמם לפני הרגל. ועושין כל צרכי הרבים, אומר בירושלמי שבעת ההיא הב"ד מתאסף לדון דיני ממונות, דיני נפשות, דיני מכות, ופודין ערכין, תרומות והקדשות, ומשקין את הסוטה, ועורפין עגלה ערופה, ושורפין את הזרה, ורוצעין עבד עברי ומטהרין את המצורע, ועוד כמו אלה שנהגו בעת ההיא. ומציינין את הקברות, שנתקלקלו בימות הגשמים, בכ"ד; ובירושלמי אומר שמציינין את הקברות למען לא יטמאו בהם העוברים, ומוכיח זאת מקרא (ויקרא י"ב) וטמא טמא יקרא, שחא הטומאה קוראת ואומרת, "גרוש ממני". ויוצאין אף על הכלאים, משום חומר האיסור לא היו מסתפקין בהכרח בלבד, כי אם היו שולחים לבקר את השדות.

(ב) ר' יהודה בא לבאר מה שהיו עושין השלוחים אם מצאו כי לא נהדר בכלאים; ובירושלמי מוכיח מנין להפקר ב"ד שהוא הפקר מן יצרא (י' 8) "וכל אשר לא יבא לשלשלת הימים והם". לפניהם, על השדה משרבו עוברי עבירה, שהשתמשו בהם.

(ג) שולחנות, מפני שהחלפנים היו נושאים אתם שולחנות להניח עליהם את המטבעות, ואמר, כי היו משימים השולחנות עד חמשה ועשרים באדר במדינה, להקל על העם שחילפו את מעותיהם על חצי השקל הכתוב בתורה, שמהויב כל אחר לתת; ואך מן המשוערים בו היו יושבין במקדש להמציא שם את החצי שקל לבאי מבחוץ ועוד לא שקלו את שקליהם; ומשישבו במקדש, התחילו למשכן גם בחוץ לארץ את אלה אשר לא הביאו שקליהם, למען יביאו את תרומתם פיר' כיוא אחד בניסן, כי גם במדינה היו שופרות למטרה הזאת. וגם הכהנים חייבים היו בשקלים אשר עקשם לקרבת ציבור, אבל הם מצאו עילול להפטר מזה כולקמן, ומפני שהיו התקופים בזמן המקדש שני לא היו ממשכנים איהם, מכני דרכי שלום.

IV

בכל מקום בש"ס שהנמרא תפרש את המשנה ותדקק אחריה בכל מלה וגם בכל אות, הנה המשניות מבוארים והנמרא במקום שפירושה צריך ביאור ולא יובן בלעדיו, אפרשנו בפירוש רש"י על מקומו בפנים, שכמעט בכל מקום דבריו אשר יוסיף, הנם לא בתור "פירוש" ורק כמשלים את החסר בפנים למען יובנו דבריהם, אבל פה שאין נמרא כלל וישנם מסומות במשניות הללו הצויכים פירוש וביאור ולא רק להשלים את החסר, ולכן הביאור נחויף מאד להיות לבדו למען תובן כונת המשנה.

מובן מאליו, כי חדושים משלי בביאורי, מעטים המה, וכולו מיוסד על פירוש הנמרא הירושלמית, המיומני והברטנורא, הר"ר ישראל ליפשיץ, וגם על הפירושים הנמצאים פה ושם בש"ס הבבלי (כמו בביאור ענין הקלכון אחותי פרוש רש"י בחולין ונתתי לו היתרון נגד שארי הפרושים אשר נטו ממנו, וכמוהם עוד באיזה מקומן) ובכן אחשוב למותר לבקש חסד מאת המבקרים, כי לא ימהרו להוציא משפט טרם יתבוננו היטב בכל הפרושים הנל ובטרם יעמיקו נ"כ בפירושי שצריך התבוננות מפני קיצורו; כי הישרים בלבותם והחכמים המבינים, יעשו כזאת מבלעדי אבקשם, ולהחצופים, הבורים ועמי הארץ, הרניכים לקרא תגר ער דברי, כוויף, ולהניד בשמי או מפי כתבי, דברים אשר לא עלו על דעתי לעולם, הלא לא יועילו בקשותי; ובשם שרקדו כנגד כל מה אשר כתבתי וערכתי עד כה, ולא נגעו ולא פגעו בכבודי ובכבוד מלאכתי אפילו כמלא נימה, כן ירקדו, ינהמו יכרכרו וינעייו כנגד מלאכתי החדשה הזאת, ואקוה כי גם עתה לא יפגעו בי לרעה, ולא אשים לב לדבריהם, חלומותיהם ונביחתם, כאשר כן עשיתי עד כה, כי באמת אני בתומי אלף, אינע ולא אי עף למצא חן בעיני אלהים ואדם אך לא בעיני בורים חצופים, ועמי הארץ, אשר כל מנמתם בנעייתם ננדי היא, רק למען יודע כי ברואים כמותם עוד נמצאים בעולם, ומה איפוא לי ולהם?

קראתי לפרושי הזה "פירוש רמ"ל" שהיא הראשי תיבות משמי ראדקינסאן מיכאל ל. ולא ר' מיכאל ל. והנני מודיע זאת מפורש, לבל יאשימוני כי לקחתי לעצמי תואר "רבי", כי כשם שאיני מתגדר במלאכת אחרים כן איני חפץ שתהיה מלאכתי בת בני שם, כי הודות לה' לא אבוש בשמי ואקוה כי לא יכלמו בי אוהבי גם מפרושי החדש.

ובה' הנותן ליעף כח אבטח ולא אפחד, כי הוא יאזרני חיל, ינחני במעגלי צדק ויעזרני לגמור את המלאכה הנדולה והכבדה הזאת להגדיל תורת התלמוד להאדירה ולתרגמה ביד ה' הטובה עלי, ומשנאי ומשנאי יראו ויבושו, אמן.

נ ו י א ר ק, בחדש אייר, תרנ"ז.

מיכאל ל. ראדקינסאן.

הקרמת העורך והמפרש.

בשם השם !

מלאכתי הכבדה, ההערכה והוצאה החדשה של התלמוד בבלי ותרגומו בשפת אנגליז, הביאתני למלאכה חדשה אשר לא נסיתי עד כה והיא, להיות גם מפרש את המשניות של המסכתות שהגמרא הבבליה חסרה להן; כי לחסר את המסכת הזאת מן סדר מועד לא יתכן, מפני שכל המשניות הללו יסודתן בהררי קודש, קורות ההיכל ועבודת הכהנים בו, בזמן שהיה קים, דבר הצריך לימוד, ידיעה וקריאה, כמו במקורן העברי כן בתרגומן, אבל לתרגם את המשניות הללו על פי אחד הפירושים שכבר נדפסו הוא כמעט דבר שאי אפשר, כי ישונים המה הפירושים זה מזה וכולם ארוכים ומפולפלים, ואם אינם טובים המה ורצויים לעם לא יכולתי להשתמש בהם בתרגומי, הנקי מכל פלפול צדדי, זולת פלפולי הגמרא בעצמה. ובאמת עד כמה שלא יהיו טובים ומתוקנים כל הפירושים למס' הזאת, לא נוכל בשום אופן לדמותם עם פירוש רש"י ז"ל כמו בקצורו, כן בסגנון לשונו, המפרש כל דבר על מקומו בלי שום פלפול צדדי, ומבלי שום נטיה לענין אחר זולת הענין שהוא עוסק בו; ואך פירוש כזה מוכשר ומתוקן לתרגם בשפה חיה. ואני נוהר מאד בהוצאה הזאת שוביל התרגום את המקור הנרפס ולא יגרע ממנו ולא יוסיף עליו, למצער במקום שאפשר, ולא יהיה בזה מה שאין בזה. שעל כן עמלתי לי לפרש את המסכת הזאת בפירוש קצר, היינו לבאר כל משנה הצריכה פירוש וביאור, והשייך רק למסכת הזאת; מבלי כל פרושים להורים שנשנו ונתפרשו במסכתות אחרות, ומבלי כל נטיה צדדית ופלפול זר בהלכה או בסברא. כאשר כן דרכי בכל ההוצאה הזאת, וינעתי ומצאתי תאמין.

כמרומה לי, אחי הקורא, שעלתה בידי לפרש את כל המסכת, במלות קצרות ומובנות, עד שגם הקורא שיסרא את המשניות האלו בפעם הראשונה, לא יחסרו לו ביאור המלות וכן הבנת הענין הדק היטב בכל שמונה פרקים; ולכן שמתי לו מקום במדור התחתון לכל צד במקום הצריך ביאור ופירוש, ובה עשיתי גם בתרגום האנגלי הדפסתי את הפירוש מלמטה בציונים, לא כמו שאני עושה בתרגומן של מסכתות אחרות עם פירוש רש"י שהנני מסנירו בפנים בשני הצאי לבנה, מטעם פשוט מאד, והוא :

מסכת

שקלים

הוצאה החדשה

של

תלמוד בבלי

הוכן מחדש, נסדר ונסמן בסמני הנקודות של השפות החיות

ונתתרגם בשפת אנגליש

מאת

מיכאל ל. ראדקינסאן.

מסכתות

שקלים עם פירוש רמ"ל

וראש השנה עם פרש"י ותורה אור.

חלק רביעי (מהוצאה האנגליש).

בהוצאה החברה מדפיסי התלמוד

54 East 106th Street.

נו י א ר ק,

תרנ"ז.

UNIVERSITY OF CALIFORNIA LIBRARY

Los Angeles

This book is DUE on the last
date stamped below.

NOV 26 1973

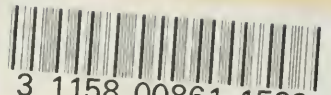
Handwritten red scribble

REC'D LD-02 75

10/8
OCT 13 1975

NOV 7 1983
REC'D LD-02

FEB 20 1984



3 1158 00861 1583

[Handwritten signature]

